DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls-State of Idaho
AUG 12 2026
By _____ Clerk
Deputy Clerk

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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 No. 67-15208 (Gallant)))))

United States' Motion for Summary Judgment

Pursuant to Rule 56 of the Idaho Rules of Civil Procedure, the United States of America, on behalf of the Department of the Interior, Bureau of Land Management ("BLM" or "United States"), hereby moves for summary judgment regarding Claim No. 67-15208, filed by Claimant Gary Gallant ("Mr. Gallant"). The Idaho Department of Water Resources ("IDWR") recommended the Claim as an instream stockwatering use with a priority date of March 1, 1951. However, no instream flow exists at the claimed location, as a development constructed and owned by the BLM pursuant to an agreement signed by Mr. Gallant has captured all available flow and pumped it through a pipeline to a trough since 2007. The original spring is within an exclosure fence. Mr. Gallant is not entitled to a water right in the development itself, and any instream use has been lost by statutory forfeiture and/or common-law abandonment, as any

instream right has not been used since 2007. IDWR has now conceded in sworn deposition testimony that it would not recommend a water right for instream use at the claimed location. Further, Mr. Gallant entered a binding agreement with the United States in 2007 agreeing that title to the development, and any water right associated with the development, must be held in the name of the United States. In sum, there is no basis for decreeing a water right here.

The United States' motion is supported by the Declarations of Fredric Price, Water Rights Specialist in the BLM Idaho State Office, *see* Ex. 1 ("Price Decl."), and Mark Widerschein, *see* Ex. 12, along with case filings and BLM agency records, *see* Exs. 2-11. While Mr. Gallant's claim is factually unsupported, he also failed to respond to the United States' discovery requests. Accordingly, under Idaho Rule of Civil Procedure ("IRCP") 36, Mr. Gallant has conclusively admitted as a matter of law that he has no water right in the Thorn Spring Allotment. Because there is no genuine dispute as to any material fact, the United States is entitled to judgment as a matter of law that the claim should be decreed disallowed.

I. Statement of Undisputed Material Facts

The following facts are undisputed and/or not reasonably subject to dispute:

1. Mr. Gallant filed Claim No. 67-15208 on March 5, 2018, asserting a March 31, 1915 priority from "Spring Thorn," tributary to Bacon Creek, in the NENW of Section 26, T15N, R2W, Washington County. *See* Ex. 2 (2018 Notice of Claim) (the "Claim"). The Claim asserts that the diverting works are "spring box + pipeline to trough." *Id.* ¶ 5.
2. On the claim form, Mr. Gallant stated as a basis for his priority: "Grazing permit, Earl Gallant + Charles Lane 1930 Lane traded land, and the thorn springs went the lane land" [sic]. *Id.* at 2. The claim form further states that "Earl started

grazing open range when he homestead in 1915 (BLM – FS – State land)" and "have FS tags for 1935-1936 etc." *Id.*

3. Attached to the Notice of Claim are: (a) an August 26, 1919 patent to Earl H. Gallant; (b) a November 17, 1930 indenture between Earl H. Gallant and Charles & Francis Lane; (c) a May 28, 1930 indenture between Earl H. & Frieda Gallant and Charles Lane; (d) an April 13, 1949 waiver of Forest Service grazing privileges by Frieda Gallant; (e) a March 11, 1952 application to transfer BLM grazing privileges from one base property to another; (f) a March 8, 1976 escrow waiver of Forest Service grazing privileges; (g) an April 19, 1917 receipt for 120 acres purchased by Earl H. Gallant, (h) a March 31, 1915 Forest Service grazing permit for the Cuddy Mt. cattle allotment on the Weiser National Forest; (i) a January 9, 2018 grazing application for the BLM Goodrich and Thorn Springs Allotments; and (j) a portion of a May 2, 2007 Cooperative Range Improvement Agreement between Gallant and BLM ("2007 CRIA"). *See id.*

4. After the filing of the claim form and subsequent correspondence between Mr. Gallant and IDWR, IDWR prepared an amended claim for Mr. Gallant, which proposed a March 27, 1980 priority date, stockwater as the purpose of use, and "none" entered for diverting works. *See* Ex. 3 (IDWR correspondence and draft claims).

5. On March 20, 2021, Mr. Gallant filed an amended claim with IDWR (hereon, "Amended Claim"). *See* Ex. 4 (Amended Claim).[1] It did not adopt IDWR's

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1 The Amended Claim was never filed with the Court. It is the United States' position that this is improper. A deferred *de minimis* subcase is initiated by a motion to file a claim and is

proposals, and continued to assert use from "spring box + pipeline to trough." *See id.* ¶ 8.

6. On June 8, 2022, IDWR filed a Director's Report, which states that "the claimed priority date of March 31, 1915, is not supported." *See* Director's Report of Deferred De Minimis Domestic and/or Stock Water Use, Subcase No. 67-15208 (Jun. 8, 2022) (the "Director's Report").
7. In the Director's Report, IDWR recommended an instream stockwatering right with a priority date of March 1, 1951. *See id.* at 5-6.
8. The Director's Report states that "vegetation visible on imagery indicates the presence of a spring." *Id.* at 6.
9. The United States timely objected to the Director's Report on August 8, 2022. *See* Ex. 5 (U.S. Objection).
10. The objection states that the water right should not exist because "the Notice of Claim described a spring development, pipeline, and troughs. The claimant is not authorized to convey a private water right through BLM's facility (Thorn Springs Project #003483)." *Id.* at 2. It further asserted that "IDWR's recommendation is only for an instream use at the sprint; however, BLM constructed an exclosure around the spring site in 2007 … therefore there could be no authorized use of water at the spring site since 2007." *Id.* Finally, it asserted that "any alleged prior use of natural flow at the spring was lost from 2007 to the present." *Id.*

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statutorily excluded from the class of claims which are filed with IDWR. *See* I.C. 42-1409(4); I.C. 42-1420. Accordingly, any amended claim should be by motion as well. However, the Director's Report utilized the Amended Claim, so this motion assumes it is the operative claim.

11. The referenced Thorn Springs Project #003483 is an exclosure, pipeline, and trough that BLM constructed around Thorn Spring in 2007 ("Thorn Springs Project"). *See* Ex. 6 (2007 CRIA); Ex. 7 (photos of exclosure and development).

12. The Thorn Springs Project was first contemplated in the August 2006 Environmental Assessment for the Isolated Parcels unit of Goodrich Watershed ('2006 EA"). *See* Ex. 8 (excerpts from 2006 EA).

13. The 2006 EA Proposed Action included "[d]evelop[ing] the spring located in the northwest quarter of Section 26, T15N, R2W which is found in the southwest corner of the allotment." *Id.* at 2.

14. The 2006 EA states that "[c]onstruction of a spring development would aid in livestock distribution and would provide for better management of the allotment," *id.* at 4, and the "water trough would draw cattle away from the spring source, preventing the source area from being trampled," *id.* at 5.

15. On April 18, 2007, BLM and Mr. Gallant entered into a Cooperative Range Improvement Agreement ("2007 CRIA"), which authorized the construction of the Thorn Springs Project. *See* Ex. 6.

16. The Thorn Springs Project captures all flow from Thorn Spring into a pipeline to a trough away from the original spring, providing Mr. Gallant with a consistent water source protected from trampling. *Id.; see also* Ex. 1 ¶ 7(b)-(c); Ex. 7 (photos showing development); Ex. 8 (2006 EA).

17. The 2007 CRIA for the Thorn Springs Project states that BLM provides "water rights," "materials and equipment to construct," and "labor for construction." *Id.* Mr. Gallant provides annual maintenance. Ex. 6 at 1.

18. Mr. Gallant and BLM agreed that "title to permanent or nonstructural improvements authorized by this agreement shall be in the United States of America." *Id.* at 2, ¶ 5(b).

19. Mr. Gallant and BLM further agreed that "any water right acquired on or after August 21, 1995 to use water on public lands associated with this improvement shall be held in the name of the United States, if permitted under State law." *Id.* at 2, ¶ 12.

20. Livestock have been prohibited from accessing exclosures on the Thorn Spring allotment since at least 1992. *See* Price Decl. ¶ 8(c), 9(c)-(f); *see also* Ex. 9 at 2. This closure was incorporated into the BLM's NEPA analysis in 2006, which analyzed what would become the Thorn Springs Project. *See* Ex. 8 (2006 EA). Accessing a closed area on an allotment is trespass. *See* 43 CFR § 4140.1. Accordingly, Mr. Gallant has lacked both physical and legal access to Thorn Spring since the fence was constructed in 2007.

21. The United States timely served Requests for Admission, Interrogatories, and Requests for Production on Mr. Gallant on April 23, 2026. *See* U.S. Notice of Service of Discovery (Apr. 27, 2026); *see also* Ex. 10 (U.S. Discovery Requests).

22. Mr. Gallant's responses to the United States' discovery requests were due May 26, 2026. IRCP 36(a)(4).

23. Mr. Gallant did not respond to the United States' discovery requests.

24. Pursuant to IRCP 36(a)(4), the following additional facts are deemed admitted:

    a) Mr. Gallant does not possess legal title to the land described as the point of diversion or place of use asserted in the Claim. *See* Ex. 10, Request

for Admission ("RFA") Nos. 1–2.

b) The United States possesses legal title to the land described as the point of diversion and place of use asserted in the Claim. *Id.*, RFA Nos. 3–4.

c) Mr. Gallant has access to graze the federally-owned land described as the place of use only pursuant to grazing permits issued by BLM. *Id.*, RFA No. 9.

d) The 2007 CRIA signed by Mr. Gallant constitutes an agency agreement with BLM through which Mr. Gallant agreed to maintain and use BLM's Thorn Springs Project for stockwatering. *Id.*, RFA No. 32-33.

e) BLM is the sole owner of the Thorn Springs Project. *Id.*, RFA No. 34.

f) BLM is the sole owner of any water rights in Thorn Spring. *Id.*, RFA No. 35.

g) The Thorn Springs Project is exclosed with a fence. *Id.*, RFA No. 36.

h) BLM has not authorized Mr. Gallant to convey a water right through the Thorn Springs Project. *Id.*, RFA No. 37.

i) Mr. Gallant has not watered livestock instream at Thorn Spring since at least the installation of the exclosure in 2007. *Id.*, RFA No. 40.

j) Any instream use at the Thorn Springs Project since the installation of the exclosure in 2007 would be in trespass. *Id.*, RFA No. 42.

k) The entire flow of Thorn Spring is captured by the Thorn Spring Development such that there is no instream flow available. *Id.*, RFA No. 44.

l) Any instream stockwater right at Thorn Spring that may have been

appropriated before 2007 has been forfeited by more than five years of non-use. *Id.*, RFA No. 45.

25. On July 9, the United States took the deposition of IDWR, pursuant to IRCP 30(b)(6). *See* Ex. 11 (excerpts of deposition transcript).

26. IDWR testified that the Amended Claim "was a claim to a diverted use of water not an in-stream use of water." *Id.* at 93:23–94:1.

27. IDWR further testified that its recommendation of an instream stockwater use "is legally a different water right than what was claimed." *Id.* at 95:20–25.

28. IDWR testified that it did not review zoomed in aerial imagery when conducting the claim examination, *id.* at 32:14-16, and that any water available sinks below the surface within the fence, *id.* at 36:14-37:4.

29. IDWR further testified that, in reviewing photos, it did not see water exiting the exclosure. *Id.* at 51:1-6, 15-18.

30. IDWR further testified that "if there's no source, there's no beneficial use. So I think we would have to recommend that there is no water right . . . based on what you have shown me, I don't see in-stream – access to in-stream flows." *Id.* at 96:10–24.

31. IDWR testified that after reviewing aerial imagery and photographs, "based on what I've seen of the spring and the access, no, I don't think I would recommend 1951." *Id.* at 99:1–4.

32. Instead, "the in-stream stock use that might have been developed doesn't exist anymore. So we'd recommend that as disallowed. We could not recommend a diverted stockwater use because the development is after the mandatory permit

statute." *Id.* at 99:5–11.

II. Standard of Review

1. Summary Judgement

Under IRCP 56, a party may move for summary judgment on any claim or defense, or any part of a claim or defense. IRCP 56(a). "Summary judgment is appropriate 'if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.'" *Summerfield v. St. Luke's McCall, Ltd.*, 169 Idaho 221, 228 (2021) (quoting IRCP 56(a)). "The moving party carries the burden of proving the absence of a genuine issue of material fact." *Banner Life Ins. Co. v. Mark Wallace Dixson Irrevocable Tr.*, 147 Idaho 117, 123 (2009). Similarly, where a movant will not bear the burden of proof at trial, that party can "carry its initial burden as the movant on summary judgment by establishing the absence of sufficient evidence" as to a critical element of the claim. *Holdaway v. Broulim's Supermarket*, 158 Idaho 606, 611 (2015) (internal citation omitted).

2. Director's Reports

While an IDWR Director's Report is entitled to prima facie validity, *see* I.C. 42-1411(5), this presumption is rebuttable. *See McCray v. Rosenkrance*, 135 Idaho 509, 514 (2001) (citing *State v. Hagerman Water Right Owners, Inc.*, 130 Idaho 736 (1997)). This analysis is conducted pursuant to I.R.E. 301 and is a so-called 'bubble-bursting' presumption: "[w]hen rebutted, the presumption disappears and the party with the benefit of the presumption retains the burden of persuasion on the issue." *Hagerman Water Right Owners, Inc.*, 130 Idaho at 745. In order to rebut a Director's Report, an objecting party must provide "substantial evidence"; which "is defined 'as such relevant evidence as a reasonable mind might accept to support a conclusion; it is more than a scintilla, but less than a preponderance.'" *Clear Springs Foods, Inc. v. Clear*

Lakes Trout Co., 136 Idaho 761, 764 (2002) (quoting *Evans v. Hara's, Inc.*, 123 Idaho 473, 478, 849 P.2d 934, 939 (1993)).

Pursuant to 42-1411(4), "[e]ach claimant of a water right acquired under state law has the ultimate burden of persuasion for each element of a water right." Accordingly, if the prima facie validity of the Director's Report is rebutted, it will be Mr. Gallant's burden at trial to prove every element of his claim.

3. Discovery Requests Deemed Admitted

Pursuant to the Idaho Rules of Civil Procedure, a party may serve a written RFA, seeking admissions for purposes of the pending action to the truth of any relevant matters relating to facts, the application of law to fact, or both. IRCP 36(a)(1). Responses to RFAs are due within thirty days of service.[2] IRCP 36(a)(4). If a party does not respond, the "matter is admitted." *Id.* A "matter admitted under this rule is conclusively established." IRCP 36(b). The Idaho Supreme Court has held that "the conclusiveness of matters admitted . . . applies equally to admissions made affirmatively and those made by default." *Quiring v. Quiring*, 130 Idaho 560, 564 (1997). RFAs admitted by default are an appropriate basis for a motion for summary judgment. *See, e.g.*, *Deloge v. Cortez,* 131 Idaho 201, 203–04 (Ct. App. 1998).

III. Argument

1. The Director's Report is Rebutted.

While IDWR's Director's Report is entitled to prima facie validity, it can be rebutted by substantial evidence. The standard for rebuttal is relatively low: more than a scintilla, but less than even a preponderance. *See Clear Springs Foods, Inc.*, 136 Idaho at 764. Here, the bubble is

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2 Because discovery was served by U.S. mail, three days were added pursuant to IRCP 2.2(c), for a total of 33 days.

burst by IDWR's own testimony that, based on the facts, the Department would no longer recommend a water right at all. *See* Statement of Undisputed Material Facts ("SUMF") 25-32. The Director's Report is based on incomplete facts. Disavowal of the recommendation in sworn testimony is clearly sufficient to require Mr. Gallant to carry the burden of persuasion as to each element of the claim independent of the Director's Report.

2. The Amended Claim Fails as a Matter of Law.

The Amended Claim is a beneficial use claim. In both the Claim and operative Amended Claim, Mr. Gallant asserted that the use was appropriated by use from a developed water source—BLM's Thorn Springs Project. However, it is undisputed that IDWR affirmatively proposed that Mr. Gallant modify the claim to one for in-stream use directly from Thorn Spring itself. *See* SUMF 26-27. Mr. Gallant did not accept that proposal. *See* SUMF 4-5. Nonetheless, IDWR recommended the claim as an in-stream use. Regardless of how the claim is construed (whether it be as claimed, to developed water; or as recommended, to an in-stream use), it fails as a matter of law. If the Amended Claim is to developed water (as asserted on the original and amended claim forms), it (1) violates Idaho's mandatory permitting statute, which requires a permit for water rights on developed sources after 1971; and (2) Mr. Gallant signed a CRIA affirming that there is no water right in his name. If the Amended Claim is somehow construed as a claim to undeveloped in-stream use at Thorn Spring (notwithstanding Mr. Gallant's rejection of IDWR's proposal to amend the claim form in this manner), it is undisputed that there is no in-stream flow physically available, and as such, no in-stream water right can be decreed, as it was lost by operation of forfeiture and/or abandonment.

a) Developed Claim

The Amended Claim describes a claim to a development. *See* SUMF 5; Ex. 4 at 1, ¶ 8.

Pursuant to Idaho law, a permit is required for any development initiated after 1971. Mr. Gallant cannot be decreed a water right in the Thorn Springs Project for two reasons: it would violate Idaho's mandatory permitting statute, and he signed a CRIA affirming that any water rights in the project are in the name of the United States.

As to mandatory permitting, "Section 42–201 of the Idaho Code was changed in 1971 to require a mandatory permit system." *Fremont-Madison Irr. Dist. & Mitigation Grp. v. Idaho Ground Water Appropriators, Inc.*, 129 Idaho 454, 456 (1996). Specifically, the Idaho Code now states that "appropriation shall be perfected only by means of the application, permit and license procedure as provided in this title." I.C. § 42-201(1); *see also* I.C. 42-103 (water rights "shall hereafter be acquired only by appropriation under the application, permit and license procedure as provided for in this title.")[3] The Thorn Springs Project was built in 2007. SUMF 11. Accordingly, any water right in the development itself is clearly subject to the mandatory permitting statute. However, Mr. Gallant did not apply for a permit, and accordingly, he did not perfect an appropriation and cannot be decreed a water right for it.[4]

Even if Mr. Gallant could point to a permit filing, his claim fails for another reason: the 2007 CRIA. CRIAs are binding agreements signed by both BLM and the permittee. The 2007 CRIA was signed by Mr. Gallant and the Four Rivers Field Manager on behalf of BLM. Ex. 6 at 3. They "mutually agreed," *id.* at 1, that the United States would provide "water rights," *id.*, that

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3 Certain *de minimis* instream stockwater rights can still be acquired by beneficial use. *See* I.C. 42-111.

4 BLM initially filed for a permit, but did not complete the process. BLM reserves the right to pursue a permit for its development in the future. Consistent with this reservation and as further discussed below, Mr. Gallant agreed in the CRIA that any water rights in the development acquired after 1995 shall be in the United States' name.

"title to permanent or nonstructural improvements authorized by this agreement shall be in the United States of America," *id.* at 2 ¶ 5, and that "any water right acquired on or after August 21, 1995 to use water on public lands associated with this improvement shall be held in the name of the United States." *Id.* at 2 ¶ 12. In sum, Mr. Gallant agreed that the United States owns both the development and any existing or future water right associated with it. Accordingly, as a matter of law, Mr. Gallant cannot be decreed a water right for the "spring box + pipeline to trough" constructed for the development, as claimed on his original and amended claim forms. The analysis should end there. However, IDWR—in excess of its authority—recommended a legally different claim, to instream use. SUMF 27. That, too, fails.

b) In-Stream Claim

Mr. Gallant is likewise not entitled to a water right for in-stream stockwater use because, to the extent one was appropriated before 2007,[5] any in-stream use has been lost since at least 2007 by application of statutory forfeiture and common-law abandonment.

Under Idaho law, a water right is "lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated." I.C. § 42-222(2); *see also Hagerman Water Right Owners, Inc.*, 130 Idaho at 732. Forfeiture is disfavored. *Crow v. Carlson*, 107 Idaho 461, 467 (1984). However, it is undisputed that the Thorn Springs Project captured all of Thorn Spring's water and moved it elsewhere for a developed use. SUMF 16, 24(k), 28-29. In short, there is no 'stream' left for in-stream stockwatering. And the Idaho Supreme Court has ruled clearly that mere use of water moved in a development from a spring

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5 The United States also asserts that Mr. Gallant has not proven the recommended 1951 priority. However, to the extent this matter proceeds to trial, the United States expressly reserves the right to develop the factual record on that matter.

located elsewhere does not constitute an in-stream beneficial use. *See In re SRBA Subcase Nos. 45-13792 and 45-13793*, 149 Idaho 532, 539–40 (2010) (rejecting claimant's assertion of a city's diverting works as their in-stream point of diversion). Accordingly, any in-stream water right, if it existed, has clearly been forfeited by nineteen years of non-use.[6]

In addition to statutory forfeiture, any water right has also been abandoned. Under Idaho law, "[a]bandonment is a common law doctrine involving the occurrence of (1) an intent to abandon and (2) an actual relinquishment or surrender of the water right." *Sears v. Berryman*, 101 Idaho 843, 847 (1981). Both exist here, as the 2007 CRIA easily meets both prongs. Intent to abandon requires "clear, unequivocal and decisive acts." *Id.* It could not be more clear, unequivocal, and decisive than signing an agreement with a government agency agreeing that BLM can capture the entire source and move that water elsewhere. *See generally* Ex. 6. Similarly, the 2007 CRIA contains actual relinquishment: it agrees that any water right in the Thorn Springs Project will be in the United States' name, rather than Mr. Gallant's name – and contemplates the United States providing "water rights" with a monetary value. *Id.* at 2 ¶ 12. Accordingly, Mr. Gallant abandoned his alleged water right in exchange for the United States' money, construction supplies, and water rights. *Id.* at 1.

Finally, by failing to respond to BLM's RFAs, Mr. Gallant has also conclusively

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6 Mr. Gallant would not be able to avail himself of the statutory exceptions found in I.C. section 42-223. The two defenses potentially applicable are sections 42-223(6) and 42-223(12). As to section 42-223(6), this is not a "circumstance[] over which the water right owner has no control." Indeed, it is the exact opposite: Mr. Gallant sought and affirmatively agreed to construction of the development, and waived any right to a water right. As to section 42-223(12), a third-party—BLM—has made a claim of right by using the water for its development. Nor could Mr. Gallant assert lack of notice of this assertion. The United States' objection clearly raised the issue: "any alleged prior use of natural flow at the spring was lost from 2007 to the present. This claim should not exist." Ex. 5 at 3(E).

admitted that he has no water right in the Thorn Spring Allotment. He admitted by default that the CRIA which he entered is an agency agreement between himself and BLM through which he agreed to maintain and use BLM's development for stockwatering and that any present or future water rights for the development are owned by the United States, rather than appropriating his own water right. SUMF 24(d). While it is not subject to serious contest based on the documentary record, he has further admitted that the United States owns both the allotment constituting the place of use and point of diversion, and the development itself. SUMF 24(a)–(c), (e)-(f). That development then exclosed Thorn Spring, which prevented access by livestock for instream use, and any such use would be trespass in violation of Federal range regulations, 43 CFR §4140.1, and Mr. Gallant's permit conditions. SUMF 24(g)-(k). Mr. Gallant further admitted that any instream water right that may have been appropriated before 2007 has been forfeited by more than five-years of non-use. SUMF 24(L).[7]

IV. Conclusion

The undisputed material facts establish that Mr. Gallant cannot be decreed a water right on the Thorn Spring Allotment. The Court should grant summary judgment to the United States and decree the Claim disallowed.

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[7] The United States is required to prove forfeiture by clear and convincing evidence. *See, e.g.*, *Crow*, 107 Idaho at 467. While the evidence is clear, as an additional matter, an RFA admitted by default "is conclusively established." IRCP 36(b); *see also Quiring*, 130 Idaho at 564 (conclusiveness of admission "applies equally to admissions made affirmatively and those made by default"). Accordingly, forfeiture is conclusively proven as a matter of law in this proceeding.

Dated: August 11, 2026

Respectfully submitted,

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Principal Deputy Assistant Attorney General
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CERTIFICATE OF SERVICE

I certify that on August 11, 2026, I served true and correct copies of the foregoing document as follows:

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Exhibit 1

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

In Re SRBA	)	Subase No.: 67-15208 (Gallant)
	)	
	)	**DECLARATION OF**
Case No. 39576	)	**FREDRIC W. PRICE**
	)	
	)	

I, Fredric W. Price, in accordance with the requirements of 28 U.S.C. § 1746, declare as follows:

1. My name is Fredric W. Price. I am an employee of the United States, Department of the Interior, Bureau of Land Management ("BLM"). The following statements are based upon my personal knowledge.

2. My present position is that of Water Rights Specialist for the BLM Idaho State Office. My current responsibilities include being the program lead for water issues in Idaho and a portion of Nevada for Idaho BLM and managing BLM's participation in general stream adjudications in Idaho and part of Nevada, including the Snake River Basin Adjudication

("SRBA") and adjudications in other river basins. In my position as a Water Rights Specialist, I provide guidance and technical support to BLM's Idaho State Director, District Managers, Field Office Managers, and technical specialists in BLM field offices, particularly those specialists working in water rights, range, and lands programs. I develop agency policy on water-related issues and in other programs affected by water issues, such as the range management and lands programs. I also review, interpret and analyze water right applications /claims. Based on this review and analysis, I prepare opinions, recommendations, protests, objections, responses for administrative and adjudication matters.

3. I have been employed by the BLM since 1982 in the following positions:

a. Eleven and a half years in various positions within the Rangeland Firefighting Program at the BLM, Shoshone Field Office, including twelve (12) months working on that office's water rights team preparing 5,500 BLM water right claims;

b. Water Rights Specialist at the BLM State Office in Boise, Idaho since August 1993.

4. As a Water Rights Specialist at the BLM State Office, since 1993, I interpret national program policy, federal regulations, and state/federal laws to prepare and recommend policy, procedures, and statewide guidance for the BLM's water rights program. In addition, I provide critical input into BLM's national policy involving water rights and water issues. I also routinely consult with and assist other state BLM offices with their water rights' policy and issues. My work experience also includes developing policy for Idaho BLM across several programs to deal with water issues, such as those affecting the range management and lands programs.

In my position, I provide guidance and direction to employees in Idaho BLM offices on all matters relating to water issues, water rights, preparation of Applications for Water Permit,

Applications for Transfer, Notices of Claim, Protests, Objections, and Petitions. I developed the investigative criteria, methods, and forms to be used by the Idaho BLM field offices to investigate water sources which is the basis for preparing Notices of Claim and submitting Proof of Beneficial Use for licensing.

5. I have been asked by counsel for the United States to provide certain information relevant to this subcase and to attest to the authenticity of documents.

6. Exhibit 6 (2007 CRIA):

a. Attached hereto as Exhibit 6 to this declaration is a true and correct copy of the 2007 Cooperative Range Improvement Agreement (hereinafter "CRIA") that authorized the Thorn Springs Project No. 3483. I obtained this official business record of the United States from the Range Improvement Project ("hereinafter "RIP") file for the Thorn Springs Project No. 3483 kept in the BLM Four Rivers Field Office.

b. Page 1 of the CRIA identifies the project number, project name, legal land description of the project location, cooperators (aka "parties") to the project, and recordation of contributions made by the cooperators. Note under term and condition 3.(a) that BLM contributed 100% of the project in terms of funding, materials, and labor. In addition, BLM was to provide the water right in support of the project consistent with BLM regulations. The "Grazing Permitee" cooperator, Gary Gallant, contributed nothing to project construction and installation. See Exhibit 6.

c. Page 2 of the CRIA contains additional terms and conditions (hereinafter "T&C") of import to this subcase:

(1) CRIA T&C number 5.(b) states: "Title to permanent or nonstructural improvements authorized by this agreement shall be in the United State of

America. See Exhibit 5. CRIA T&C 5.(b) establishes ownership of the range improvement solely in the name of the United States, consistent with BLM regulations 43 U.S.C. §4120.3-2(b) (2005).

2) CRIA T&C number 12 states: "Any water right acquired on or after August 21, 1995 to use water on public lands associated with the improvement shall be held in the name of the United States, if permitted under State Law. See Exhibit 5. CRIA T&C number 12 establishes that BLM shall hold title to any water rights associated with this range improvement, consistent with BLM regulations 43 U.S.C. §4120.3-9 (2005). Also T&C number 3.(a) identifies (by mutual agreement) that BLM will be contributing the water right for this range improvement. The CRIA does not authorized the conveyance of a private water right through BLM's range improvement.

d. Page 3 of the CRIA is the signature page of the agreement. Gary Gallant signed the agreement on April 29, 2007; and, the BLM Four River Field Manager, Rosemary Thomas, finalized the agreement by signing the agreement on May 18, 2007.

7. Exhibit 7 (photos of exclosure):

a. Attached hereto as Exhibit 7 to this declaration are true and correct copies of thirteen (13) photographs taken of the Thorn Springs Project No. 3483 in the spring of 2009. I obtained this official business record of the United States from the Range Improvement Project ("hereinafter "RIP") file for the Thorn Springs Project No. 3483 kept in the BLM Four Rivers Field Office.

b. This series of photos document the features of this range improvement, including the spring area, the exclosure that completely surrounds the spring area, and the location of the trough outside of the exclosure.

c. Review of the project file, project photos, and aerial photography reveal that no surface water escapes the perimeter of the exclosure.

d. In grazing management, an exclosure is generally understood as a fenced or otherwise enclosed area where livestock are excluded to allow vegetation or soil to recover without grazing pressure. When developing a spring source, it is typical for BLM to construct an exclosure around the entire spring area, in order to, protect the diversion works (headbox, etc.) from trampling damage by livestock, and to prevent compaction of soils from livestock traffic (which can cause the spring to go out of production).

e. There has been no authorized access to the exclosure since 2007 nor to the spring within the exclosure, in order to, water livestock. Livestock only have access to water in the trough.

8. Exhibit 8 (2006 Environmental Assessment)

a. Attached hereto as Exhibit 8 to this declaration is a true and correct copy of an Environmental Assessment (hereinafter "EA") completed in August of 2006 by the BLM Four Rivers Field Office. I obtained this official business record of the United States from the Four Rivers Field Office NEPA records storage.

b. EA #ID110-2005-EA-010 analyzed administrative modifications of twenty-four (24) Grazing Permits covering twenty-nine (29) grazing allotments, including the Gallant Individual Allotment No. 112, which was renamed in this EA to be Thorn

Springs Allotment No. 112. See Appendix A10 starting on page 75 of Exhibit 8 for memorializing modifications to grazing within the Gallant Individual Allotment No. 112.

c. EA #ID110-2005-EA-010 imposes several T&Cs in Appendix A10, including T&C No. 8 that states: "Livestock exclosures located within your grazing allotments are closed to all domestic grazing use." This is not a new T&C as it had been present in annual operating instructions which I have reviewed going back to 1992.

d. EA #ID110-2005-EA-010 also analyzes a proposed spring development of Thorn Spring. See references to the development in Exhibit 8 at page 34 (Table 6: Proposed Actions), page 36 (Grazing Permits Currently Existing and Proposed Action), page 76 ("Develop the spring located in the northwest quarter of Section 26, T15N, R2W which is found in the southwest corner of the allotment."), and page 78 ("Construction of a spring development would aid in livestock distribution and would provide for better management of the allotment.").

e. The spring development analyzed in EA #ID110-2005-EA-010 was authorized by the 2007 CRIA for Thorn Springs Project No. 3483, attached hereto as Exhibit 6.

9. Exhibit 9 (2003-2013 grazing permit)

a. Attached hereto as Exhibit 9 to this declaration is a true and correct copy of the Grazing Permit issued to Gary Gallant (Operator No. 1101098) in the Goodrich Common Allotment (No. 0016) and the Gallant Individual Allotment (No. 00112) for the term of October 20, 2003 to February 28, 2013. I obtained this official business record of the United States from the Grazing Operator File for Gary Gallant (Operator No. 1101098) kept in the BLM Four Rivers Field Office.

b. The Gallant Individual Allotment (No. 00112) is now known as the Thorn Springs Allotment (No. 00112).

c. On page 2 of the Grazing Permit are T&Cs, the eighth condition states: "Livestock exclosures located within your grazing allotments are closed to all domestic grazing use."

d. It is a prohibited act to graze livestock within an exclosure. 43 CFR §4140.1(a)(1):

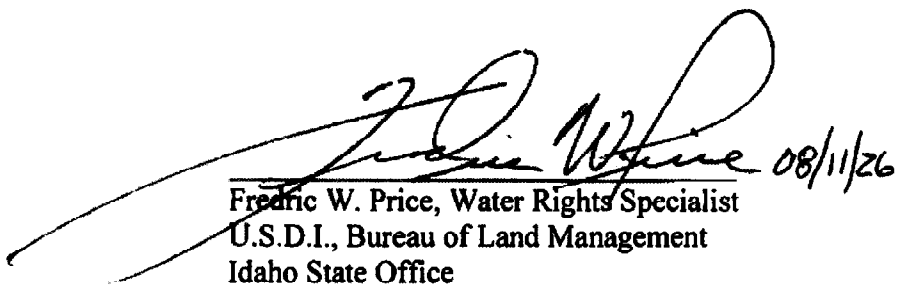
> **43 CFR §4140.1** Acts prohibited on public lands
> **(a)** Grazing permittees or lessees performing the following acts may be subject to civil penalties under 4170.1:
> **(1)** Violating special terms and conditions incorporated in permits or leases.
> **(4)** Failing to comply with the terms, conditions, and stipulations of cooperative range improvement agreements or range improvement permits.

e. This permit is provided as an example of implementing exclosure language. I have reviewed the grazing permits issued subsequent to the 2003-2013 grazing permit, which have incorporated by reference all of the T&Cs implemented from the 2006 EA.

f. I reviewed the Grazing Operator File for Gary Gallant (Operator No. 1101098) and the annual operating instructions contained in the Annual Grazing Bills going, as far back as 1992, contain stipulations regarding livestock exclosures. The Grazing Bill from 1993 includes the following stipulation: "Livestock exclosures located within your grazing allotments are closed to all domestic grazing use. It is your responsibility to keep the fences in good repair where maintenance has been assigned to you. Permittees who willingly cause and willingly allow their livestock to graze in exclosures closed to grazing will be char[g]ed with trespass."

//

Pursuant to the provisions of 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.



08/11/26

Fredric W. Price, Water Rights Specialist
U.S.D.I., Bureau of Land Management
Idaho State Office

Exhibit 2

Form No. 42-1409-2 (Internet 7/17)

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

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

CIVIL CASE NUMBER: 39576
Claim ID: 67 15208
Date Received: DISTRICT COURT - SRBA
Receipt No: Fifth Judicial District
Claim Fee: County of Twin Falls - State of Idaho

MAR - 5 2018

By Clerk
Deputy Clerk

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW
For Domestic and/or Stockwater Purposes
Where Daily Use is less than 13,000 gallons per day

Please type or print clearly

1. Name of claimant(s) GARY GALLANT Phone (208) 253-4586
   Mailing address 1677 Goodrich RD Council Ida Zip 83612
   Street or Box City State
   Email address (optional) _____
2. Date of priority: (Only one per claim) 3-31-1915 (Explain priority date selected in Remarks)
   Month/Day/Year (YYYY)
3. Source of water supply (Check one) Ground Water ( ) or Other ( ) (a) Spring THORN
   which is tributary to (b) Bacon Creek
4. Location of point of diversion is: Township 15N, Range 2W, Section 26,
   NE 1/4 of NW 1/4, or Govt. Lot _____ BM, County of Washington;
   Parcel no. _____
   Additional points of diversion, if any: _____
   If available, GPS coordinates: _____
5. Description of diverting works (wells, pumps, spring boxes, pipelines, etc.) including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well.
   Spring Box + Pipe Line To Trough
6. Water is claimed for the following: (limited to domestic and/or stockwater uses - see page 1 of the instructions)
   For Stock Water purposes from 4-1 (Month/Day) to 8-31 (Month/Day) amount 13,000 gal (cfs ( ) or AFY ( )) 13 DA
   For _____ purposes from _____ to _____ amount _____
7. Total quantity claimed _____ cfs ( ) or AFY ( )
8. Non-irrigation uses. Describe fully. (Domestic: give number of homes; Stockwater: list number and kind)
   Cows = 80

BASE PROPERTY

9. Location of place of use is: Township 15 N, Range 2W, Section 15,
SE4 NE4 E2 S34
_____ 1/4 of _____ 1/4, Govt. Lot _____ BM, Parcel no. RP15N02W151800A
If different than shown in Item 4

for (check one) Domestic ( ) Stock (X) Domestic and Stock ( )

Additional places of use, if any _____

10. In which county(ies) are lands listed above as place of use located? Adams

11. Do you own the property listed above as place of use? Yes (X) No ( )
If the answer is No, describe in Remarks below the authority you have to claim this water right.

12. ~~Describe any other water rights used at the same place and for the same purposes as described above.~~
EARL STARTED GRAZING OPEN RANGE WHEN HE HOMESTEADED IN 1914
(BLM - FS - STATE LAND or None ( )
HAVE FS TAGS FOR 1935-1936 ETC

13. Remarks (include an explanation of the priority date selected):
Grazing Permit, Earl Gallant + Charles LAND
1930 LANE Traded LAND, And the Thornspings went ↑ THE LANE

14. Basis of claim (check one) Beneficial Use (X) Posted Notice ( ) License ( ) Permit ( ) Decree ( )

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

15. **Signature(s)**
(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How You Will Receive Notice in the Snake River Basin Adjudication."
(b.) I/We do ( ) do not (X) wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: ADDED 12 PAGES

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) Gary G. Gallant Date: 1-24-18
Carole M. Gallant Date: 2-16-18

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am, and that I have signed the foregoing document in the space below as the

_____ of _____,
Agent's title (Please print) Name of organization (Please print)

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____

Printed Name of Authorized Agent _____

16. **Notice of Appearance:**
Notice is hereby given that I, (please print) _____, will be acting as attorney at law of behalf on the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____ Date _____

Address _____

Name of claimant(s) _____ Claim ID _____

INSTRUMENT NO. 12010

Boise 015966 and 017314 Aug. 26, 1919.

THE UNITED STATES OF AMERICA,

To All To Whom These Presents Shall Come, GREETING:

WHEREAS, a Certificate of the Register of the Land Office at Boise, Idaho, has been deposited in the General Land Office, whereby it appears that, pursuant to the Act of Congress of May 20, 1862, "To Secure Homesteads to Actual Settlers on the Public Domain," and the Acts supplemental thereto, the claim of EARL H. GALLANT has been established and duly consummated, in conformity to law, for the

Southeast Quarter of the Northeast Quarter, the North Half of the Southeast Quarter, and the Southeast Quarter of the Southeast Quarter of Section Twenty-two and the West Half of the Northwest Quarter and the West Half of the Southwest Quarter of Section Twenty-three in Township Fifteen North of Range Two West of the Boise Meridian, Idaho, containing three hundred twenty acres, according to the Official Plat of the Survey of the said land, returned to the General Land Office by the Surveyor-General:

NOW KNOW YE, That there is, therefore, granted by the United States unto the said claimant the tract of land above described; TO HAVE AND TO HOLD the said tract of land, with the appurtenances thereof, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, Woodrow Wilson, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, in the District of Columbia the seventh day of August in the year of our Lord one thousand nine hundred and nineteen and of the Independence of the United States the one hundred and forty-fourth.

(SEAL)

United States
General Land Office.

By the President: Woodrow Wilson

By E. D. Bouldin, Assistant Secretary.

L. Q. C. Lamar,

Recorder of the General Land Office.

Recorded: Patent Number 701859.

THIS INDENTURE, Made this 25th day of October in the year of our Lord nineteen hundred and thirty between CHARLES LANE and FRANCES L. LANE of Goodrich, County of Adams, State of Idaho, the parties of the first part, and EARL H. GALLANT of Goodrich, County of Adams, State of Idaho, the party of the second part.

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of ONE DOLLAR and other good and valuable consideration, lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, have granted, bargained and sold and by these presents do grant, bargain, sell, convey and confirm unto the said party of the second part, and to his heirs and assigns forever, all the following described real estate situated in Adams County, State of Idaho, to-wit:

The Northeast Quarter of the Northeast Quarter, the South Half of the Northeast Quarter, the Southeast Quarter of the Northwest Quarter, the Northeast Quarter of the Southwest Quarter, and the Northwest Quarter of the Southeast Quarter of Section Twenty-three and the West Half of the Northwest Quarter of Section Twenty-four in Township Fifteen North of Range Two West of the Boise Meridian, Idaho, containing three hundred twenty acres.

TOGETHER, with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to the said property, as well in law as in equity of the said parties of the first part.

TO HAVE AND TO HOLD, All and singular, the above mentioned and described premises, together with the appurtenances unto the party of the second part, and to his heirs and assigns forever. And the said parties of the first part, and their heirs, the said premises in the quiet and peaceable possession of the said party of the second part, his heirs, and assigns, against the said parties of the first part, and their heirs, and against all and every person or persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, sealed and delivered in the presence of - - - - -

Charles Lane (Seal)

Frances L. Lane (Seal)

State of Idaho)
County of Washington) ss

On this 18 day of November in the year 1930 before me, Geo. Donart, a Notary Public in and for said county, personally appeared Charles Lane and Frances L. Lane, his wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

50

INSTRUMENT NO. 18239

THIS INDENTURE, Made this 28th day of May in the year of our Lord nineteen hundred and thirty between EARL H. GALLANT and FRIEDA GALLANT, his wife of --, County of Adams, State of Idaho, the parties of the first part, and Charles Lane of ---- County of Adams, State of Idaho, the party of the second part.

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of ONE DOLLAR and other good and valuable consideration, lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, have granted, bargained and sold and by these presents do grant, bargain, sell, convey and confirm unto the said party of the second part, and to his heirs and assigns forever, all the following described real estate situated in Adams County, State of Idaho, to-wit:

The Northeast Quarter of the Northeast Quarter of Section 22, Township 15 North, Range 2 West of Boise Meridian.

The Southeast Quarter of the Northeast Quarter, the North Half of the Southeast Quarter, and the Southeast Quarter of the Southeast Quarter of Section 22, and the Southwest Quarter of the Northwest Quarter, and the West Half of the Southwest Quarter of Section 23, Township 15 North, Range 2 West of Boise Meridian

SAVE AND EXCEPT therefrom, a right of way fifty feet in width, running diagonally across the extreme northeast corner of the Northeast Quarter of the Northeast Quarter of Section 22, and a right of way fifty feet in width running across the extreme northeast corner of the Southwest Quarter of the Northwest Quarter, of said Section 23, said right of way being for road purposes to enable the parties of the first part and their successors in interest to go across the lands above described for the purpose of providing them with access to their own lands situate contiguous thereto.

THIS GRANT is made subject to taxes for the year 1930. There is also hereby granted to the second parties a right of way for road purposes through, over and across the SE¼SE¼ of Sec. 15, Twp. 15 N. R. 2 W. B. M.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to the said property, as well in law as in equity of the said parties of the first part:

TO HAVE AND TO HOLD, All and singular, the above mentioned and described premises, together with the appurtenances unto the party of the second part, and to his heirs and assigns forever. And the said parties of the first part, and their heirs, the said premises in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, against the said parties of the first part, and their heirs and against all and every person or persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hand and seal the day and year first above written.

Earl H. Gallant (Seal)

Frieda Gallant (Seal)

Signed, sealed and delivered
in the presence of - - - - - -

State of Idaho }
County of Washington } ss

On this 28th day of May in the year 1930, before me, Geo. Donart, a Notary Public in and for said State, personally appeared Earl H. Gallant and Frieda Gallant known to me to be the persons whose names are subscribed to the within instrument, and acknowldged to me that they executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Geo. Donart

Notary Public

(NOTARIAL SEAL) Residing at Weiser, Idaho.

Recorded at the request of Charles Lane at 1 minute past 2 o'clock P. M. this 18 day of Nov. 1930.
Fees $1.40

Matilda Moser, Recorder.

Form 762
(Revised November 1945)

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

WAIVER OF GRAZING PRIVILEGES

This MEMORANDUM witnesseth that:

WHEREAS, the undersigned, Mrs Frieda A. Gallant, under date of Goodrich, Idaho, received from the United States Department of Agriculture, Forest Service, a permit with established preference to graze [1] 97 head of cattle upon the Payette National Forest; and

WHEREAS, such permit is understood to carry with it, in the discretion of the Chief, Forest Service, subject to the reductions stated therein or incident thereto if not included in the face of the permit, and upon the request of the permittee, a continuation of such privilege; and

WHEREAS, the undersigned, has under date of February 21, 19 49 sold to Glenn H. Gallant (Son) of Goodrich, Idaho, 28 head of cattle and the following-described real estate:

NOW, THEREFORE, the undersigned, here and now surrenders unto the United States all privileges heretofore allowed under the aforesaid permit as to 28 head of cattle and ____ head of ____; further the undersigned stipulates that she will not at any future time apply for a renewal of the preference herein surrendered.

Executed at Council, Idaho State of Idaho

this 21 day of February, 19 49

Frieda A. Gallant
Permittee.

WITNESS:

D Russell

Confirmed subject to the requirements outlined on the reverse side hereof, and filed this the 13th day of April, 1949

L. A Hague

acting *Supervisor,* Payette *National Forest.*

[1] Show total number of livestock for which preference is established.

16—24552-2

RM
LICENSES/PERMITS
Transfers

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management

_____ Region
_____ District

APPLICATION AND AFFIDAVIT FOR TRANSFER OF GRAZING PRIVILEGES
Under Sec. 7(b) or (c) of the Federal Range Code

March 11, 1952
Date

I, Mrs. Earl H. Gallant, of Council, Idaho
Name P. O. Address

do hereby make application to transfer all/that part of my/our license/permit, contract No. 257236, dated 3-1, 1951, to the extent of 65 AUMs use of the Federal range with 25 AUs of cattle/sheep, from the following-described base lands which qualified for grazing privileges under provisions of the Federal Range Code, (25 cattle in spring & 15 cattle in fall) Sec. 15: SW¼NW¼, NW¼SW¼; Sec. 15: SE¼NE¼, NE¼SE¼, SE¼SE¼; Sec. 23: S½NE¼NE¼, S½NE¼, NW¼NW¼, SE¼NW¼, NW¼SE¼, NE¼SW¼; Sec. 24: S½NW¼NW¼, SW¼NW¼, NW¼SW¼; all in Twp. 15 N. R. 2 W. B. M.

to the following-described lands:
Sec. 18: Lot 4; Sec. 19: Lot 1, in Twp. 15 N. R. 1 W. B. M.: Sec. 13: SW¼, S½SE¼; Sec. 14: NE¼NE¼, S½NE¼, SE¼NW¼, NE¼SW¼, S½SW¼, SE¼; Sec. 23: N½NE¼NE¼, NE¼NW¼, NW¼NW¼, NE¼NE¼; Sec. 24: N½NW¼NW¼, all in Twp. 15 N. R. 2 W. B. M.

The applicant hereby certifies and declares that the base properties first above described is owned/controlled by her; that she has the lawful right to make such transfer; that the said base lands are free from all encumbrances, or, if encumbered, the assents of the encumbrancers to such transfer are hereto attached and made a part of this application, and that the new base lands are qualified to receive and maintain the grazing privileges so transferred.

The applicant further certifies and declares that she fully understands that the lands first above described will lose by such transfer the portion of grazing privileges above mentioned and that such grazing privileges to the extent of 25 AUMs will, when such transfer is approved, attach to the new base lands.

STATE OF Idaho }
COUNTY OF Washington } SS

Mrs. Earl Gallant, being first duly sworn deposes and says that she is the person named in and who subscribed the foregoing application for transfer, that she has read the same and knows the contents thereof and that the same is true of her own knowledge.

/s/ Mrs. Earl H. Gallant

Subscribed and sworn to before me this 11 day of Mar., 1952.

/s/ Arthur Wilson
Notary Public
Residing at Cambridge, Idaho

My commission expires: Nov. 17, 1953

Glenn H. Gallant hereby certifies that he is a citizens of the United States and owns ~~exercises control over~~ the base lands second above described and request that such transfer be made.

/s/ Glenn W. Gallant
Transferee

Inapplicable words or statements will be deleted.
GrS-62 (Revised July 1946)

FORM APPROVED
OMB NO. 40-R3490

U.S. DEPARTMENT OF AGRICULTURE
Forest Service

ESCROW WAIVER OF TERM GRAZING PERMIT PRIVILEGES

(Reference FSM 2230)

NOTE: The information requested on this form is voluntary; however, all of the data requested is necessary if you wish to be considered for an escrow waiver of term grazing permit privileges. The data is requested under authority of 5 U.S.C. 301, 36 CFR 222.3.

This MEMORANDUM witnesseth that:

WHEREAS, the undersigned, Glen H & Ida J. Gallant, under date of March 8, 1976, received from the United States Department of Agriculture, Forest Service, a term permit which allows the grazing of[1] 58 head of cattle upon the Payette National Forest[2], National Grassland[2]; and N/A

WHEREAS, such permit is understood to carry with it, in the discretion of the Chief, Forest Service, subject to modifications stated therein or incident thereto if not included in the face of the permit, and upon written application by the permittee, a priority for renewal of said permit; and

WHEREAS, the undersigned, Gary G. Gallant, has under date of January 28, 1980, mortgaged to Glen H. & Ida J. Gallant of Council, ID, 58 head of cattle which are permitted livestock and the following described base property: Description on warranty deed.

as collateral security for a loan in the amount of $ 121,250.00 payable ~~on~~ By Installments ~~19*******~~ on January 28 each year until paid

NOW, THEREFORE, the undersigned here and now surrenders unto the United States all privileges heretofore allowed under the aforesaid permit as to 58 head of cattle and --- head of --- except the privilege to continue to graze the aforesaid stock pending satisfaction of the mortgage(s) given as aforesaid or a written statement by the lender that it no longer relies upon this escrow waiver; and further, the undersigned understands that the privileges herein surrendered may be restored upon the satisfaction of the said mortgage or a written statement on the part of the lender that it no longer relies upon the escrow waiver; and further, the undersigned stipulates that in the event of foreclosure of the said mortgage he will forfeit said term grazing permit and all privileges connected therewith.

Executed at Council, State of Idaho

this 25 day of March, 19 80

WITNESS:

Gary G. Gallant
Permittee.

Permittee.

Verified this the 25th day of March, 1980

(Lender)

Confirmed and filed this the 17 day of July, 1980

P. B. Wright

A/ Forest Supervisor, PAYETTE National Forest.

[1] *Show total number of livestock for which term permit is established.*
[2] *Delete one.*

(OVER)

2200-13 (4-78)
PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE.

Department of the Interior
GENERAL LAND OFFICE
4—131
Form approved by Comptroller of Treasury
January 9, 1913.

RECEIPT

No. 2010982

U. S. LAND OFFICE, Boise, Idaho, April 19, 1917
(Date.)

RECEIVED of S. E. Blaine, Agent for Earl H. Gallant, Goodrich, Idaho
(Name.) (Address.)

One Hundred Twenty and no/100 Dollars, in connection with

Sale of Isolated Tract, SERIAL No. 019070
(Kind of application and act under which made.)

Purchase money, 40 acres, at $3.00 per acre	120	
Purchase money, excess area acres, at $ per acre		
Fees		
Commissions on acres, at $ per acre		
Testimony fees, words, at cents per 100 words		
Contest fees, words, at cents per 100 words		
Transcripts of records, words, at cents per 100 words		
Interest, $ from to (Inclusive.), at %		
Surplus amount tendered		
plats, at $ each		
Letter "C" 2/10/17 Total	120	

[signature], Receiver of Public Moneys.

This Receipt is evidence only of the receipt of the amount indicated, and must be issued at the time the money is received, without regard to the subsequent allowance or rejection of the application, entry, etc., due notice of which will be given.

In case of error in this Receipt, notify the Receiver of Public Moneys where issued, and the Commissioner of the General Land Office, Washington, D. C.

In writing to the local land office or the General Land Office concerning the application or entry in connection with which this Receipt issued, always give the above Serial Number and the Receipt Number.

Form 656
Revised Feb. 1, 1913.

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

GRAZING PERMIT

(This permit is not transferable)

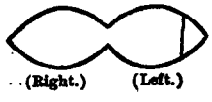
March 31, 1915.
(Date.)

M E. H. Gallant (Name.), of Goodrich, Idaho (Place of residence.), having paid to the First National Bank of Ogden (U. S. Depository) the grazing fee amounting to the sum of Two and 88/100 dollars ($ 2.88), is hereby authorized to pasture the following number and class of live stock:

9 head of cattle

and ____ head of ____

branded or earmarked as follows:



upon lands of the United States within the Weiser National Forest from May 1, 1915, to October 31, 1915;

Provided, That the animals shall not intrude upon any area upon which grazing is prohibited, nor upon any portion of the National Forest except the following-described area:

pn the Cuddy Mt. cattle allotment in Dist. 4.

This permit is issued in consideration of the promises and agreements made by said E. H. Gallant in his application dated Feb. 12, 1915.

This permit is issued with no obligation or agreement on the part of the Government to maintain an exclusive possession upon any part of said Forest to any one person or firm, nor as to adjustment of any conflict as to possession.

For a violation of any of the terms of the application on which it is based, or whenever any injury is being done the Forest by reason of the presence of the animals therein, this permit will be canceled and the animals will be removed from the Forest.

J. B. Rafferty
Supervisor.

NOTE.—Animals under six months old at the time of entry, which are the natural increase of stock grazed under permit, will not be counted.

c 8—549

Form 4130-3a
(June 2015)

U.S. Department of the Interior
BUREAU OF LAND MANAGEMENT

FORM APPROVED
OMB NO. OMB NO. 1004-0041
Expires: October 31, 2017

GRAZING APPLICATION

State: ID
Office: LLIDB01000
Preference Code: 03
AUTHORIZATION: 1101098

IF CHANGED RETURN BY: February 23, 2018

GARY & CAROLE GALLANT
1677 GOODRICH ROAD
COUNCIL ID 83612

BUREAU OF LAND MANAGEMENT
FOUR RIVERS FIELD OFFICE
3948 DEVELOPMENT AVE
BOISE ID 83705-5339

INSTRUCTIONS: PLEASE REVIEW THE GRAZING SCHEDULE(S) BELOW, which list(s) the upcoming grazing use for which you will be billed unless you request changes that are subsequently approved by the BLM.

Use this form to request changes in upcoming grazing use for BLM approval. BLM may approve changes that are within the terms and conditions of your term GRAZING PERMIT. To request changes, edit the schedule(s) below to clearly show your requested grazing use (livestock number, grazing dates, etc.); sign and date; and file the application at this office by February 23, 2018. Application submitted after February 23, 2018, may result in a service charge for reissuing a grazing bill.

Please contact us with any questions at 208-384-3300.

TERMS AND CONDITIONS

ALLOTMENT		PASTURE	LIVESTOCK NUMBER	KIND	PERIOD BEGIN	PERIOD END	%PL USE	TYPE USE	AUMS
SCHEDULE NUMBER: 1									
ID00016	GOODRICH		52	CATTLE	05/01/18	06/30/18	100	ACTIVE	104
ID00016	GOODRICH		68	CATTLE	10/01/18	11/15/18	100	ACTIVE	103
ID00112	THORN SPRINGS		80	CATTLE	04/01/18	08/31/18	44	CUSTODIAL	64

ALLOT NUMBER: ID00112

YOUR CERTIFIED ACTUAL USE REPORT IS DUE 15 DAYS AFTER AUTHORIZE USE

HAS BEEN COMPLETED.

OFFICE NOTIFICATIONS:

RECEIVED AT
BOISE DISTRICT

2007 MAY -2 PM 3:10

Form 4120-6
(April 2004)

FORM APPROVED
OMB NO. 1004-0019
Expires: March 31, 2007

FOR BLM USE ONLY

State ..... ID

Office 110

Project Number(s) 3483

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

COOPERATIVE RANGE IMPROVEMENT AGREEMENT

INSTRUCTIONS - Cooperator(s) to receive original, and one copy each to the District/Field Office case or lease file and District/Field Office project file.

Project Name(s)
Thorn Springs

1. I, (We) **Gary Gallant** of **Council, Idaho**

of

of

and of

hereinafter called cooperator(s) and the United States of America, by the Bureau of Land Management, hereinafter called the Bureau, for and in consideration of the mutual benefits hereunder, and in accordance with the Taylor Grazing Act (43 U.S.C. 315, 315a-r), as amended, the National Soil Conservation Act (16 U.S.C. 590a(3)), as amended, the Federal Land Policy and Management Act (43 U.S.C. 1701, et seq.), and the Public Rangelands Improvement Act (43 U.S.C. 1904) do enter into this cooperative agreement for the construction and/or maintenance of range improvements, installation of conservation works or establishment of conservation practices, hereinafter referred to collectively as improvements, for the benefit of the public lands and of the cooperator(s).

2. The improvement(s) known as the
Thorn Springs Development

☑ will be ☐ is (are) are located upon: **NE 1/4 NW** 1/4, Sec(s). **26** , T. **15N** , R. **2W** ,
Boise Meridian, County of **Washington** , State of **Idaho** .

3. IT IS MUTUALLY AGREED:

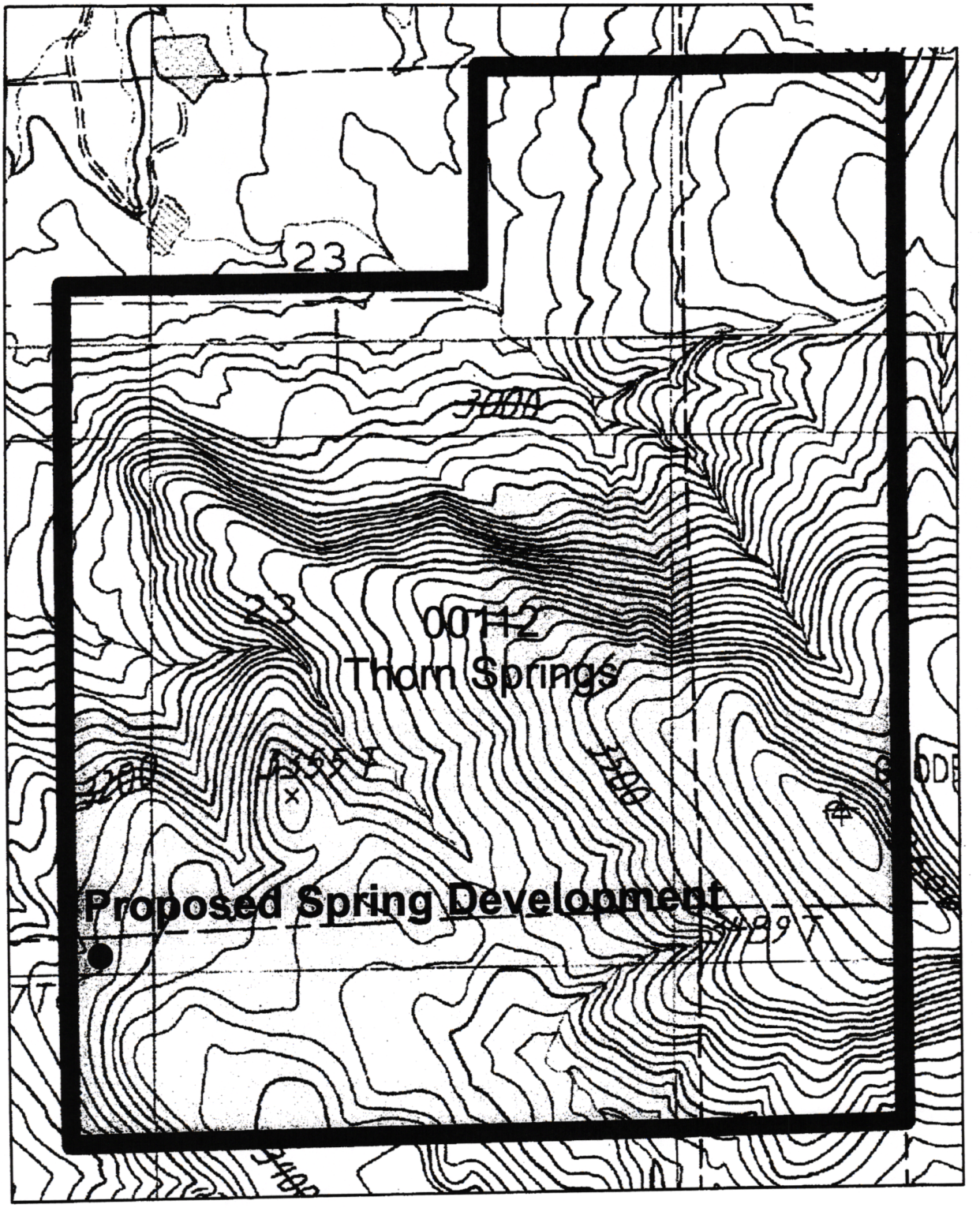
(a) The parties hereto will furnish labor, materials, and equipment as required, the total cost of value not to exceed the amount listed below for each of the parties respectively for the initial construction and/or installation of the improvements indicated in paragraph 2.

NAME(S) OF COOPERATOR(S)	ITEMS	TOTAL COST OR VALUE
Grazing Permittee	**Annual Maintenance**	$
Bureau of Land Management	**Water Rights**	**$ 100.00**
BUREAU OF LAND MANAGEMENT	**Materials and equipment to construct**	**$3,000.00**
	Labor for construction	**$1,000.00**
	AGGREGATE COST	$

Title 18, U.S.C., Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

(Continued on page 2)

Thorn Springs Allotment #112
T 15 N R 2 W





Map Legend
- Fence
- Proposed Allotment Boundary
- 1999 Cascade RMP Designated Allotment Boundaries
- BLM
- State

1:11,000

0 0.25 0.5 Miles

N W E S

No warranty is made by the Bureau of Land Management for use of the data for purposes not intended by BLM. No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data.

6/14/2006, 060612_thorn_springs_112_s.mxd
Printed By: Jeff Mork

Exhibit 3

State of Idaho
DEPARTMENT OF WATER RESOURCES
322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098
Phone: (208) 287-4800 • Fax: (208) 287-6700
Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

November 23, 2020

GARY GALLANT
16371 GOODRICH RD
COUNCIL ID 83612

RE: Stockwater Claims 67-15208, 67-15209, 67-15210, 67-15211 and 67-15212

Dear Mr. Gallant:
The Idaho Department of Water Resources is reviewing your instream stockwater claims. Claim 67-15208 is for grazing within the Bureau of Land Management (BLM) Thorn Springs allotment. We were not able to trace the deed chain to the claimed priority date of 1915. The document you supplied entitled *Dependent Property and Adjudication Summary* issued March 27, 1980, summarized grazing by the Gary Gallant Ranch within BLM allotment 0112. The BLM identifies the Thorn Springs Allotment as ID00112. This document allows us to support a priority date of March 27, 1980 to claim 67-15208.

Claims 67-15209 and 67-15210 are within the Goodrich allotment on BLM property. The *Dependent Property and Adjudication Summary* document confirms a priority date of March 27, 1980. Without additional documentation, the available evidence supports the 1980 priority date for claims 67-15209 and 67-15210.

The enclosed documents include three amended claims. The amended claims for 67-15208, 67-15209, and 67-15210 have the amended priority date of March 27, 1980. The original claims were incomplete so the amendments also includes the section and quarter quarter for each place of use and point of diversion which is required for IDWR to move forward with advertising the claims. Original claims 67-15208 and 67-15210 described diversion works to a trough. Claims for diverted surface water with a priority date after May 20, 1971, are subject to the mandatory permit statute. If you were to file a permit, the priority date would be the date the Department receives the permit. The attached amended claims are for instream stockwater.

Claim 67-15211 and 67-15212 are for springs and Johnson Creek respectively. The identified points of diversion and places of use fall on land that belongs to the State of Idaho. In May of 2019, the Idaho Department of Lands filed objections to both claims. According to their objections 'The establishment of any water rights on state endowment lands shall be by and for the State of Idaho.'

IDWR plans to move forward to advertise your claims as described in the *Order Governing Procedures in the SRBA For Adjudication Of Deferred De Minims Domestic And Stock Water*

Claims. If you choose to amend any or all of the elements shown on claims 67-15208, 67-15209 and 67-15210 they will be advertised as represented in the amended claims. Given the State of Idaho's objection to claims 67-15211 and 67-15212, do you want to continue with advertising? If you have questions please contact me at 208.287.4881 or Sandra.thiel@idwr.idaho.gov.

Amended claims

Sincerely,

Sandra Thiel
Sr. Water Resource Agent

Enclosures

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: 67-15210
Date Received: 3/5/2018
Receipt No: C105166
Claim Fee:
Received By: _____

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

For Domestic and/or Stockwater Purposes
Where Daily Use is less than 13,000 gallons per day

AMENDED

1. Name of Claimant(s)

GARY G GALLANT
16371 GOODRICH RD
COUNCIL ID 83612

Phone: (208) 253-4586

2. Date of Priority: ~~3/31/1915~~ **3/27/1980**

3. Source:
SPRINGS
SPRINGS

Trib. to:
DRY CREEK
WEISER RIVER

4. Point of Diversion:

Township	Range	Section	¼ of ¼ of ¼	Lot	County	Type
16N	02W	**22**	**SE NW**		ADAMS	
16N	02W	**21**	**NW SE**		ADAMS	

5. Description of diverting works:

None

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A
STOCKWATER	05/01	06/30	0.04		
STOCKWATER	10/01	11/15	0.04		

7. Total Quantity Appropriated is:

0.02 C.F.S. and/or A.F.A.

8. Non-irrigation uses:

9. Place of use:

STOCKWATER within ADAMS County

Township	Range	Section	¼	of	¼	Lot	Acres
16N	02W	21	NW		SE		
16N	02W	21	SW		SE		
16N	02W	22	SE		NW		

10. Do you own the property listed above as place of use? No

If your answer is no, describe in remarks below the authority you have to claim this water right.

_____

_____

11. Other Water Rights Used:

12. Remarks:

Priority Date Explanation:

This right is appurtenant to the base property described below:
T15N, R02W, S15, SENE, NESE and SESE.

13. Basis of Claim: Beneficial Use

14. Signature(s)

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

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: 67-15209
Date Received: 3/5/2018
Receipt No: C105166
Claim Fee:
Received By: _____

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

For Domestic and/or Stockwater Purposes
Where Daily Use is less than 13,000 gallons per day

AMENDED

1. Name of Claimant(s)

GARY G GALLANT
16371 GOODRICH RD
COUNCIL ID 83612

Phone: (208) 253-4586

2. Date of Priority: ~~3/31/1915~~ **3/27/1980**

3. Source: DRY CREEK

Trib. to: WEISER RIVER

4. Point of Diversion:

Township	Range	Section	¼ of ¼ of ¼	Lot	County	Type
16N	02W	**28**	**NE NW**		ADAMS	

5. Description of diverting works:
None

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A
STOCKWATER	05/01	06/30	0.02		
STOCKWATER	10/01	11/15	0.02		

7. Total Quantity Appropriated is:

0.02 C.F.S. and/or A.F.A.

8. Non-irrigation uses:

9. Place of use:

STOCKWATER within ADAMS County

Township	Range	Section	¼	of	¼	Lot	Acres
16N	02W	28	NE		NW		

10. Do you own the property listed above as place of use? No

If your answer is no, describe in remarks below the authority you have to claim this water right.

_____

_____

11. Other Water Rights Used:

12. Remarks:

Priority Date Explanation:

This right is appurtenant to the base property described below:
T15N, R02W, S15, SENE, NESE and SESE.

13. Basis of Claim: Beneficial Use

14. Signature(s)

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

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: 67-15208
Date Received: 3/5/2018
Receipt No: C105166
Claim Fee:
Received By: _____

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

**For Domestic and/or Stockwater Purposes
Where Daily Use is less than 13,000 gallons per day**

AMENDED

1. Name of Claimant(s)

GARY G GALLANT
16371 GOODRICH RD
COUNCIL ID 83612

Phone: (208) 253-4586

2. Date of Priority: ~~3/31/1915~~ **3/27/1980**

3. Source: SPRING

Trib. to: BACON CREEK

4. Point of Diversion:

Township	Range	Section	¼ of ¼ of ¼	Lot	County	Type
15N	02W	**26**	**NE NW**		WASHINGTON	

5. Description of diverting works:
None

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A
STOCKWATER	01/01	12/31	0.02		

7. Total Quantity Appropriated is:

0.02 C.F.S. and/or A.F.A.

8. Non-irrigation uses:

9. Place of use:

STOCKWATER within WASHINGTON County

Township	Range	Section	¼	of	¼	Lot	Acres
15N	02W	26	NE		NW		

10. Do you own the property listed above as place of use? No

If your answer is no, describe in remarks below the authority you have to claim this water right.

_____

_____

11. Other Water Rights Used:

12. Remarks:

Priority Date Explanation:

This right is appurtenant to the base property described below:
T15N, R02W, S15, SENE, NESE and SESE.

13. Basis of Claim: Beneficial Use

14. Signature(s)

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

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

Exhibit 4

RECEIVED

APR 0 5 2021

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

CIVIL CASE NUMBER: 39576

Ident. Number: 67-15208
Date Received: 3/5/2018
Receipt No: C105166
Claim Fee:
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

For Domestic and/or Stockwater Purposes
Where Daily Use is less than 13,000 gallons per day

1. Name of Claimant(s)

GARY G GALLANT
1677 GOODRICH RD
COUNCIL ID 83612-5252

Phone: (208) 253-4586

2. Date of Priority: 3/31/1915

3. Source: SPRING

Trib. to: BACON CREEK

4. Point of Diversion:

Township	Range	Section	¼ of ¼ of ¼	Lot	County	Type
15N	02W	26	NE NW		WASHINGTON	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A
STOCKWATER	01/01	12/31	0.02		

7. Total Quantity Appropriated is:

0.02 C.F.S. and/or A.F.A.

8. Non-irrigation uses:

Spring box + Pipeline to trough.

9. Place of use:

STOCKWATER within WASHINGTON County

Township	Range	Section	¼	of	¼	Lot	Acres
15N	02W	26	NE		NW		

10. Do you own the property listed above as place of use? (No)

If your answer is no, describe in remarks below the authority you have to claim this water right.

1 1 & 1 2

11. Other Water Rights Used:
Earl Started grazing open range when he homesteaded in 1914 (BLM - FS - State Land) Have FS Tags for 1935-1936 etc.

12. Remarks:

Priority Date Explanation:
Grazing permit, Earl Gallant & Charles. 1930 Lane traded land and the Thorn Springs went the land.

This right is appurtenant to the base property described below:
T15N, R02W, S15, SE1/4NE1/4, E1/2SE1/4

13. Basis of Claim: Beneficial Use

14. Signature(s)

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

Number of attachments: _____

For Individuals:

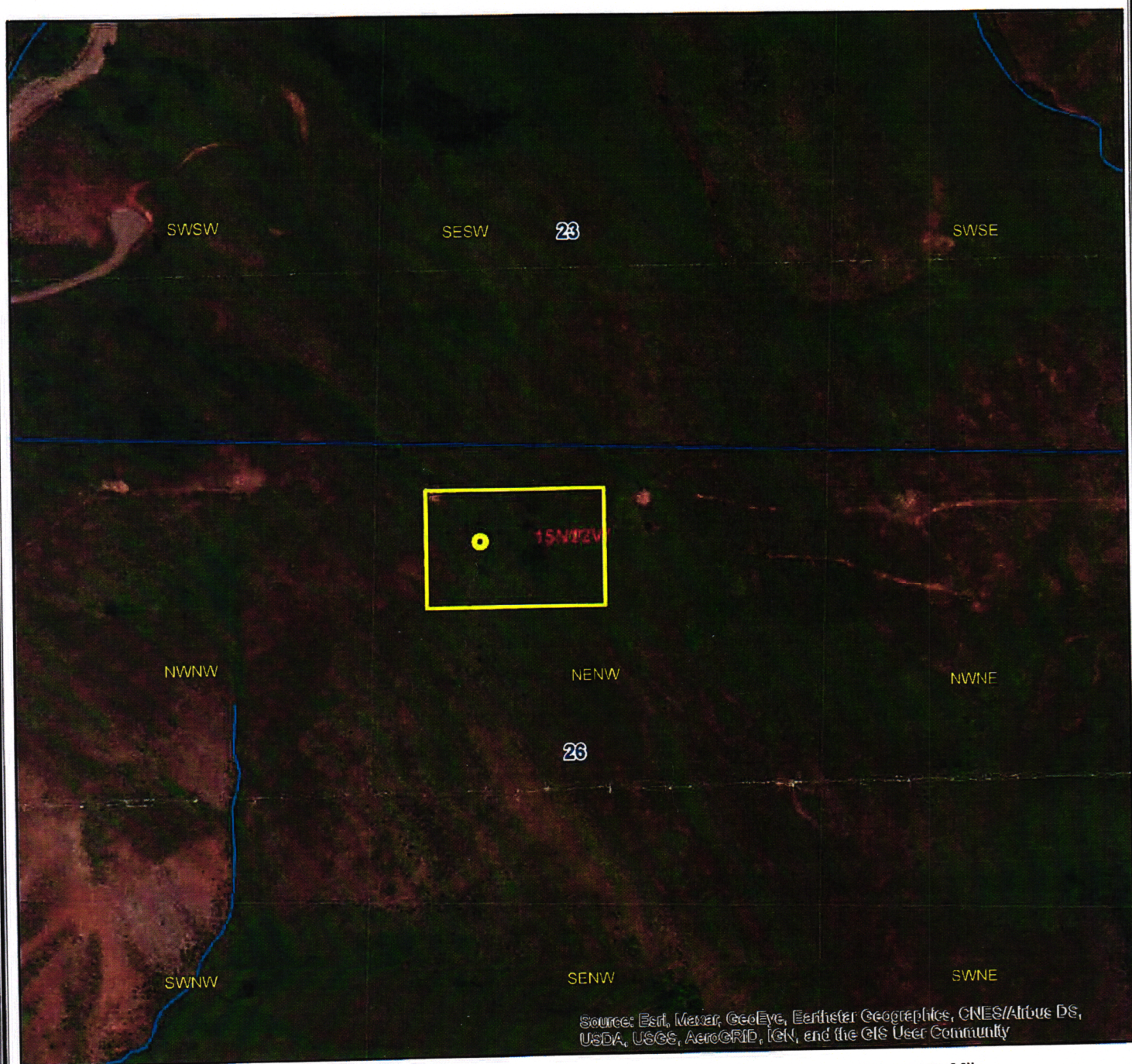
I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Gary M. Gallant Date: 3-20-2021

Carole M. Gallant Date: 3-20-2021

State of Idaho
Department of Water Resources

Adjudication Claim
67-15208



Claimed Point(s) of Diversion
Claimed Place of Use
Sections
QQ
Township/Range

0 0.03 0.06 0.12 0.18 0.24 Miles

N

Exhibit 5

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho
AUG 08 2022
By _____ Clerk
Deputy Clerk

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 67-15208
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America acting through the Department of Interior, Bureau of Land Management, Idaho State Office
Address: 1387 South Vinnell Way
Boise, Idaho 83709-1657
Daytime Phone: (208) 373-3831
Name & Address of Attorney, if any:
David L. Negri (208) 334-1936 phone, (208) 334-1414 fax
United States Department of Justice
Environment and Natural Resource Division
Natural Resources Section
550 West Fort Street, MSC 033
Boise, Idaho 83724

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

Name: Gary Gallant
Address: 1677 Goodrich Rd
Council, ID 83612-5252

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: .
5. ■ **Point(s) 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: .
10. **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):**

There is no evidence that the claimant, or his predecessors, satisfied the test for a valid appropriation of water, where point(s) of diversion and/or place(s) of use are designated on federal public land. The claimant does not have a valid water right with the elements claimed.

The Notice of Claim described a spring development, pipeline, and troughs. The claimant is not authorized to convey a private water right through BLM's facility (Thorn Springs Proj #003483).

IDWR's recommendation is only for an instream use at the spring; however, BLM constructed an exclosure around the spring site in 2007. It is a prohibited act for livestock to access the interior of an exclosure, therefore there could be no authorized use of water at the spring site since 2007. Any alleged prior use of natural flow at the spring was lost from 2007 to the present. This claim should not exist.

F. **VERIFICATION** (Must be Completed)

State of Idaho)
) ss.
County of ADA)

Fredric W. Price, Water Rights Specialist , duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

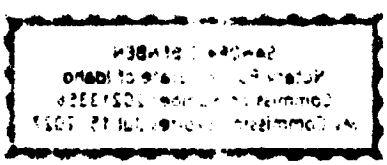
Subscribed and sworn to before me on: August 5, 2022

Sandra Benben

Notary Public for Idaho
Residing at: Boise
My Commission Expires: 7/15/2027

SANDRA G BENBEN
Notary Public - State of Idaho
Commission Number 20213356
My Commission Expires Jul 15, 2027

(Attorney signing in representative capacity)



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 August 5, 2022, 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, ID 83303-2707

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

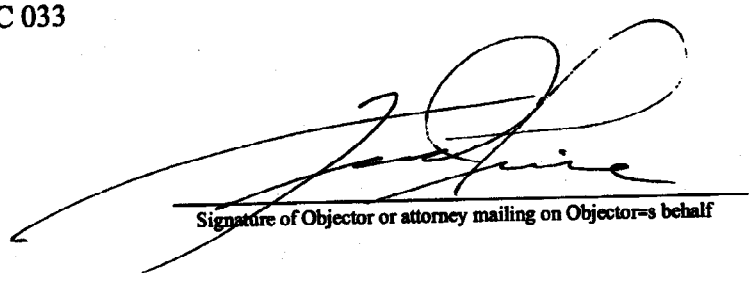
Name: Gary Gallant
Address: 1677 Goodrich Rd
Council, ID 83612-5252

3. Copies to:

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

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, ID 83720-0010

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



Signature of Objector or attorney mailing on Objector=s behalf

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho
06/06/2022
JUN 08 2022
By: Clerk
Deputy Clerk

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

RIGHT NUMBER: 67-15208

NAME AND ADDRESS: GARY GALLANT
1677 GOODRICH RD
COUNCIL ID 83612-5252

SOURCE: SPRING TRIBUTARY: SINKS

QUANTITY: 0.020 CFS

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

PRIORITY DATE: 03/01/1951

POINT OF DIVERSION: T15N R02W S26 NENW Within WASHINGTON County

This right does not grant any right-of-way or easement across the land of another.

PURPOSE AND PERIOD OF USE:

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

The period of use under this water right is limited to the period of use authorized by the United States for grazing on Federal land as described in the applicable grazing permit, annual operating instructions, and other controlling documents.

Stockwater use is for the in-stream watering of livestock.

PLACE OF USE:

STOCKWATER in WASHINGTON County
T15N R02W S26 NENW

This right is appurtenant to the base property described below:
T15N, R02W, S15, SENE, NESE and SESE.

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: BASIS OF CLAIM - Beneficial Use

Parcel No. RP15N02W151800 for Base Property.

Source is also known as Thorn Spring.

Exhibit 6

RECEIVED
BOISE DISTRICT
2007 MAY -2 PM 3:10

Form 4120-6
(April 2004)

FORM APPROVED
OMB NO. 1004-0019
Expires: March 31, 2007

FOR BLM USE ONLY

State ..... ID
Office 110
Project Number(s) 3483

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

COOPERATIVE RANGE IMPROVEMENT AGREEMENT

INSTRUCTIONS - Cooperator(s) to receive original, and one copy each to the District/Field Office case or lease file and District/Field Office project file.

Project Name(s)
Thorn Springs

1. I, (We) **Gary Gallant** of **Council, Idaho**

of

of

and of

hereinafter called cooperator(s) and the United States of America, by the Bureau of Land Management, hereinafter called the Bureau, for and in consideration of the mutual benefits hereunder, and in accordance with the Taylor Grazing Act (43 U.S.C. 315, 315a-r), as amended, the National Soil Conservation Act (16 U.S.C. 590a(3)), as amended, the Federal Land Policy and Management Act (43 U.S.C. 1701, et seq.), and the Public Rangelands Improvement Act (43 U.S.C. 1904) do enter into this cooperative agreement for the construction and/or maintenance of range improvements, installation of conservation works or establishment of conservation practices, hereinafter referred to collectively as improvements, for the benefit of the public lands and of the cooperator(s).

2. The improvement(s) known as the
Thorn Springs Development

☑ will be ☐ is (are) are located upon: NE 1/4 NW 1/4, Sec(s). 26 , T. 15N , R. 2W ,
Boise Meridian, County of **Washington** , State of **Idaho** .

3. IT IS MUTUALLY AGREED:

(a) The parties hereto will furnish labor, materials, and equipment as required, the total cost of value not to exceed the amount listed below for each of the parties respectively for the initial construction and/or installation of the improvements indicated in paragraph 2.

NAME(S) OF COOPERATOR(S)	ITEMS	TOTAL COST OR VALUE
Grazing Permittee	**Annual Maintenance**	**$**
Bureau of Land Management	**Water Rights**	**$ 100.00**
BUREAU OF LAND MANAGEMENT	**Materials and equipment to construct**	**$3,000.00**
	Labor for construction	**$1,000.00**
	AGGREGATE COST	**$**

Title 18, U.S.C., Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

(Continued on page 2)

(b) Upon notice from the authorized officer of the Bureau, cooperator(s) will promptly supply labor, materials, and equipment as specified in paragraph 3(a) as required. Contributed materials in excess of the amount required shall be returned to the contributor. Equipment contributed shall be returned promptly following completion of the work. Work will be conducted under the supervision and direction of the authorized officer and shall be pursued with diligence until completed.

4. (a) The cooperator(s) shall be liable, jointly and severally, for the repair and maintenance of the improvements following completion, in good and serviceable condition. The cooperator(s), without further notice from the authorized officer shall do the necessary work promptly. If work is not performed as necessary, the authorized officer shall notify the cooperator(s) and specify a period within which to complete the work as required.

(b) In event the cooperator(s) default in the repair and maintenance of the improvements the authorized officer may do or cause such work to be done for and in behalf of the cooperator(s); and the necessary cost and expense thereof shall become a charge and obligation upon and shall be paid by the cooperator(s). It is further understood in case of default that any grazing permit or lease may be canceled and may not be renewed or extended or any transfer of grazing preference may not be approved unless and until all charges and costs owed by the cooperator(s) hereunder shall have been paid; and provided that the Bureau may pursue such other remedies, legal or administrative, as may be authorized.

(c) Repair and maintenance, as herein required, shall mean normal upkeep and maintenance necessary to preserve, protect, and prolong the useful life of the improvements, but shall not include major repairs where the damage is due to floods, earthquakes, or other acts of God, or fire not the result of fault or negligence of the cooperator(s) as determined by the authorized officer.

5. IT IS FURTHUR AGREED

(a) This agreement does not convey right, title, or interest in any lands or resources held by the United States.

(b) Title to permanent or nonstructural improvements authorized by this agreement shall be in the United States of America. The actual amount of the cooperator's(s') funds, materials, and the value of the labor contributed to the construction of range improvements shall be recorded to document their respective interest in the improvement.

(c) The improvements may be removed, in whole or in part, during the term of this agreement or any extension thereof, by mutual consent of the parties or by direction of the authorized officer; such removal shall be made by the cooperator(s), or by the Bureau at its option. During the course of salvaging material, the United States assumes no responsibility for the protection or preservation of said material. Upon removal of the improvements, any salvageable materials, after deducting an amount to compensate for the actual cost of removal, shall be available for distribution to the parties then subject to this agreement in proportion to the actual amount of their respective contributions to the initial construction of the improvements. The parties shall take possession and remove their portion of the salvaged materials within one hundred and eighty (180) days after first notification in writing that such material is available; upon failure to do so within the time allowed, the materials shall be deemed to have been abandoned and title thereto shall thereupon vest in the United States.

(d) In the event lands containing improvements described under (b) above are devoted to another public purpose which precludes grazing, including disposal, the cooperator(s) shall be entitled to reasonable compensation for the adjusted value of the cooperator's interest to the improvements.

6. Applications by the cooperator(s) to transfer the grazing preference and/or permitted grazing use embracing the lands upon which the improvements are constructed or in connection with which they are used, shall evidence assignment of interest in this Cooperative Agreement to the transferee. [Before the transferee will be recognized as successor in interest hereunder, the transferee will be required by the authorized officer to accept an assignment of this agreement and agree to be bound by the provisions respecting the use and maintenance of the improvements.]

7. The cooperator(s) use of the improvements will be in conformance with any special conditions, the grazing permit(s) or lease(s), and regulations of the Secretary of the Interior.

8. This agreement shall not accord to cooperator(s) any preference, privilege, or consideration with respect to any grazing permit or lease not expressly provided herein or in the rules and regulations governing such grazing permit or lease.

9. Items 2, 3, and 4 (a) of this agreement may be modified or canceled by written agreement of the parties, which agreement shall become a part hereof.

10. This agreement is subject to the provisions of Executive Order No. 11246 of September 24, 1965, as amended, which sets forth the nondiscrimination clauses. A copy of this order may be obtained from the authorized officer.

11. This agreement shall remain in effect indefinitely from date of signature unless (1) otherwise designated under item 14. Special Conditions, or (2) terminated by mutual written consent of parties, or (3) terminated by the authorized officer after notice in writing because of the cooperator(s) default or violation, or (4) terminated by the authorized officer after notice in writing because the improvements are not compatible with adopted land use plans, or (5) terminated renegotiated, or modified by the authorized officer following consultation with the parties involved, as a result or changes in law, regulation, or national BLM policy.

12. Any water right acquired on or after August 21, 1995 to use water on public lands associated with this improvement shall be held in the name of the United States, if permitted under State Law. Co-application or joint ownership by permittees or lessees of water rights for purposes of livestock water will be allowed where State Law permits the practice.

13. Any water developed, improved, or impounded under this cooperative agreement will be available for wildlife and free roaming wild horse and burros use and other authorized public use to the extent that such use is consistent with the multiple-use management objectives for the area.

(Continued on page 3)

14. Special Conditions

Development of this spring was assessed in Environmental Assessment number ID110-2005-EA-010 for Goodrich Watershed-Isolated Parcels permit renewal process. Thorn Springs Allotment consists of approximately 320 acres of public land and 400 acres of private land managed together in one pasture.

COOPERATOR(S)

Gary L. Gallant 4-27-07
(Signature) (Date)

(Signature) (Date)

(Signature) (Date)

(Signature) (Date)

THE UNITED STATES OF AMERICA

State of **Idaho**

District/Field Office **Boise District; Four Rivers Field Office**

By Rosemary Thomas
(Signature)

Four Rivers Field Manager
(Title)

5/18/07
(Date)

(Continued on page 4)

(Form 4120-6, page 3)

Thorn Springs Allotment #112
T 15 N R 2 W

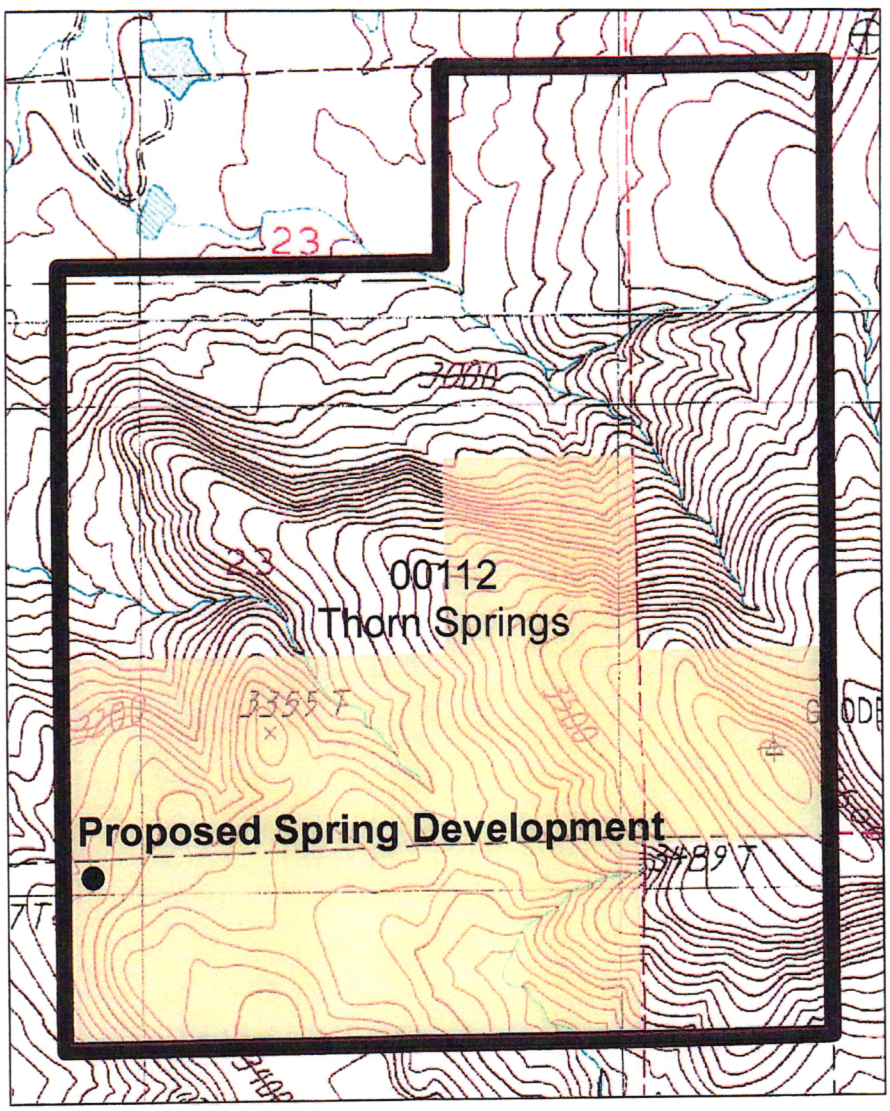


Exhibit 7

Thorn Springs (00112)
Water Trough, Spring 2009
RIPS#: 003483
15N2W26_NW1/4



Thorn Springs (00112)
Water Trough, Spring 2009
RIPS#: 003483
15N2W26_NW1/4




Thorn Springs (00112)
Water Trough, Spring 2009
RIPS#: 003483
15N2W26_NW1/4

Thorn Springs (00112)
Water Trough, Spring 2009
RIPS#: 003483
15N2W26_NW1/4



Thorn Springs (00112)
Water Trough, Spring 2009
RIPS#: 003483
15N2W26_NW1/4



Thorn Springs (00112)
Water Trough, Spring 2009
RIPS#: 003483
15N2W26_NW1/4



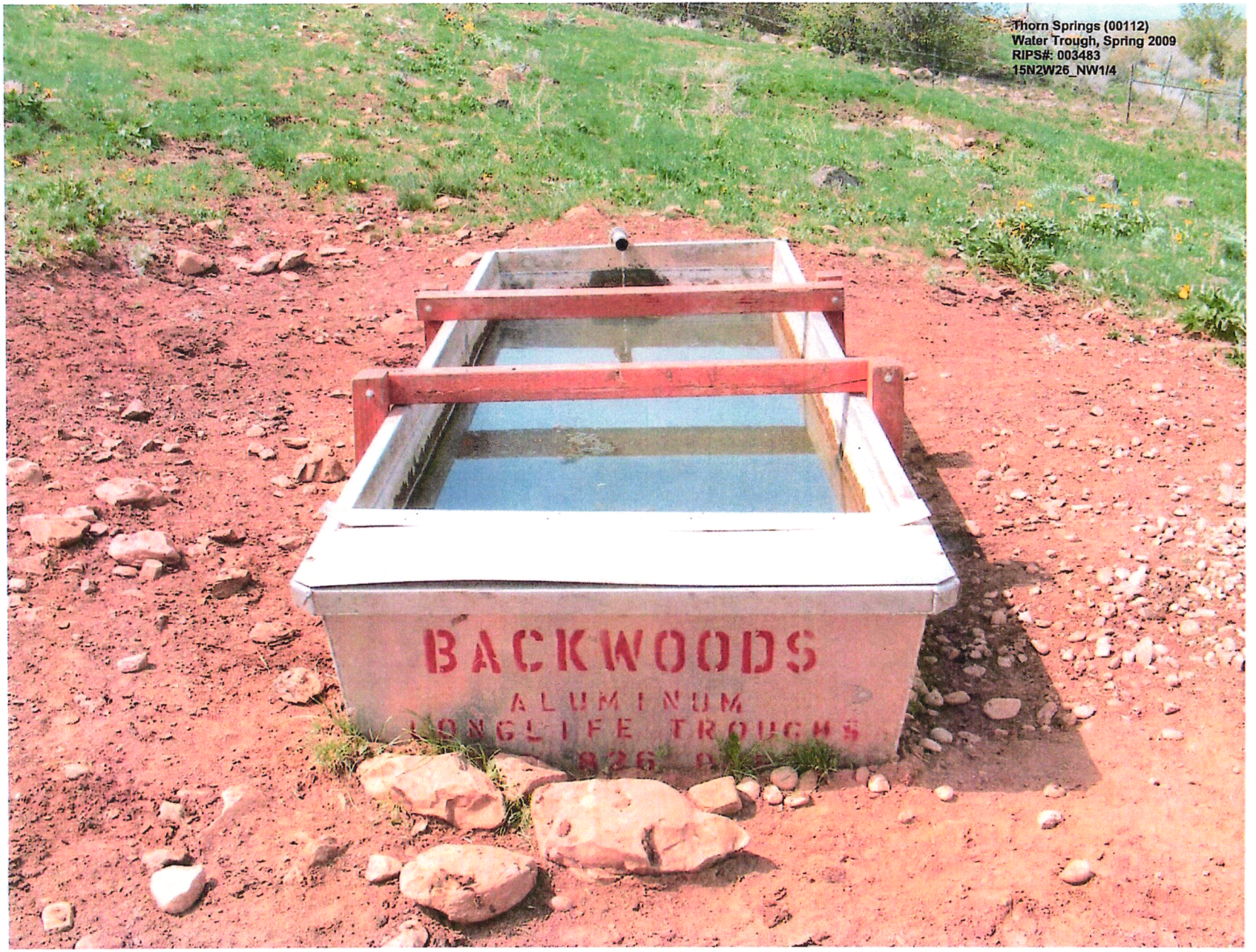

Thorn Springs (00112)
Water Trough, Spring 2009
RIPS#: 003483
15N2W26_NW1/4

Thorn Springs (00112)
Water Trough, Spring 2009
RIPS#: 003483
15N2W26_NW1/4




Thorn Springs (00112)
Water Trough, Spring 2009
RIPS#: 003483
15N2W26_NW1/4


Thorn Springs (00112)
Water Trough, Spring 2009
RIPS#: 003483
15N2W26_NW1/4


Thorn Springs (00112)
Water Trough, Spring 2009
RIPS#: 003483
15N2W26_NW1/4
BACKWOODS
ALUMINUM


Thorn Springs (00112)
Water Trough, Spring 2009
RIPS#: 003483
15N2W26_NW1/4


Thorn Springs (00112)
Water Trough, Spring 2009
RIPS#: 003483
15N2W26_NW1/4

Exhibit 8

UNITED STATES DEPARTMENT OF THE INTERIOR
BLM, BOISE DISTRICT
Four Rivers Field Office

EA #ID110-2005-EA-010 Title Page

Applicant (if any): BLM Action	*Proposed Action:* Administrative modifications of 24 Grazing Permit covering 29 Allotments within the Isolated Parcels unit of Goodrich Watershed			*EA Number:* ID-110-2005-EA-010
State: Idaho	*County:* Washington and Adams	*District:* Boise	*Field Office:* Four Rivers	*Authority:* NEPA FLPMA Taylor Grazing Act Cascade RMP
Prepared By: FRFO ID Team	*Title:* Various – See list of IDT members in Consultation and Coordination Section of EA			*Report Date:* August 2006

LANDS INVOLVED

Allotment	Meridian	Township	Range	Sections	Acres
County Line #17	Boise	15N; 14N	2W	35; 1	80
Bilbao Individual #34	Boise	16N	2W	30	60
Burton Individual #55	Boise	14N	2W	3	40
Fruitvale Glen #79	Boise	18N	1W	34	40
Cambridge #82	Boise	15N	3W	24, 26	480
North Rush Creek #102	Boise	15N	3W	11, 14	200
Farrens #103	Boise	15N	3W	15	40
Fisk #105	Boise	17N	1W	8, 17	120
Beaver Creek #108	Boise	16N	3W	33	80
Gallant Individual #112	Boise	15N	2W	23, 24, 26	320
Dad Harrington #135	Boise	18N	2W	23, 27, 28	160
L&J Harrington #138	Boise	18N	2W	24	240
Kilborn Individual #167	Boise	16N	1W	21	160
Rush Creek #169	Boise	15N	3W	26, 27	160
Hays #199	Boise	15N	1W	17, 18	80
Advent Gulch #200	Boise	15N	4W	23	119
D. Moritz Individual #206	Boise	17N; 16N	1W	32; 5	361
Mesa #217	Boise	16N	1W	21, 32, 33	220
Putnam Individual #223	Boise	15N	3W	14, 23, 26	720
Ryals Individual #227	Boise	18N	1W	32	80
Schlehuber #231	Boise	15N	3W	13, 14, 24	359

Allotment	Meridian	Township	Range	Sections	Acres
Grizzly Creek #262	Boise	15N	3W	1, 12	160
Thorn Creek South #270	Boise	15N	1W	26	40
Starkey #276	Boise	18N	1W	34	200
Hornet Creek #291	Boise	17N	1W	32	120
Williams Individual #373	Boise	16N	2W	31	338
Putnam Custodial #385	Boise	15N	3W	22	40
Gould Individual #20122	Boise	15N	2W	13	160
Thorn Creek West #20137	Boise	15N	1W	24	80

Consideration of Critical Elements	N/A or Not Present	Applicable or Present, No Impact	Discussed in EA
Air Quality	X		
Areas of Critical Environmental Concern	X		
Cultural Resources			X
Environmental Justice (E.O. 12898)	X		
Farm Lands (prime or unique)	X		
Floodplains	X		
Migratory Birds	X		
Native American Religious Concerns	X		
Invasive, Nonnative Species			X
Wastes, Hazardous or Solid	X		
Threatened or Endangered Species			X
Social and Economic		X	
Water Quality (Drinking/Ground)	X		
Wetlands/Riparian Zones			X
Wild and Scenic Rivers (Eligible)	X		
Wilderness Study Areas	X		

Environmental Assessment #ID110-2005-EA-010

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Appendix A10
Gallant Individual Allotment #112

1.0 Introduction

Gallant Individual Allotment consists of approximately 320 acres of public lands and 400 acres of private land, per the 1988 Cascade Resource Management Plan (RMP). Livestock grazing management category is "C" which is defined, in the RMP, as custodial management to prevent resource damage.

2.0 Description of Alternatives

The permittee for Gallant Individual Allotment has authorizations to graze on two different allotments. Through this document, only Gallant Individual Allotment is being addressed. Current conditions, management proposals, and consequences for Goodrich Common Allotment would be addressed in Environmental Assessment #ID-110-2005-EA-011. Therefore, Goodrich Common Allotment is only acknowledged below in Section 2.1, and not discussed any further in this document.

2.1 Alternative A – No Action

Livestock grazing authorization would continue, with the current grazing permit expiring February 28, 2013. Mandatory terms and conditions of the grazing permit are:

Permittee	Allotment	Livestock	Season of Use	Percent Public Land	Preference		
					Authorized	Suspended	Total
Gary Gallant	Goodrich #16	58 Cattle	05/15 to 06/30	100%	90	96	207
		58 Cattle	10/15 to 10/25	100%	21		
	Gallant Ind #112	64 Cattle	04/01 to 05/31	50%	64	0	64

Terms and Conditions are:

1. Key Riparian browse vegetation will not be used more than 50 percent of the current annual twig growth that is within reach of the animals.
2. Key herbaceous riparian vegetation on riparian areas, other than the streambanks, will not be grazed more than 50 percent during the growing season, or 60 percent during the dormant season.
3. Turn-out is subject to Boise District range readiness criteria.
4. Your certified actual use report is due within 15 days of completing your authorized annual grazing use.
5. Salt and/or supplement shall not be placed within one quarter (¼) mile of springs, streams, meadows, aspen stands, playas or water developments.
6. Change to the scheduled use requires prior approval
7. Trailing activities must be coordinated with the BLM prior to initiation. A trailing permit or similar authorization may be required prior to crossing public lands.
8. Livestock exclosures located within your grazing allotments are closed to all domestic grazing use.

9. Range improvements must be maintained in accordance with the cooperative agreements and range improvements permits in which you are a signatory or assignee. All maintenance of range improvements within a wilderness study area requires prior consultation with the authorized officer.
10. All appropriate documentation regarding base property leases, lands offered for exchange-of-use, and livestock control agreements must be approved prior to turn-out. Leases of land and/or livestock must be notarized prior to submission and be in compliance with Boise District policy.
11. Failure to pay the grazing bill within 15 days of the due date specified shall result in a late fee assessment of $25.00 or 10 percent of the grazing bill, whichever is greater, not to exceed 250.00. Payment made later than 15 days after the due date, shall include the appropriate late fee assessment. Failure to make payment within 30 days may be a violation of 43 CFR 4140.1(b)(1) and shall result in action by the authorized officer under 43 CFR 4150.1 and 4160.1-2.

2.2 Alternative B – Proposed Action

Based on field mapping of existing fencelines for Gallant Individual Allotment and information provided by the permittee, acreages have been calculated. Within the fenced area, there is approximately 718 acres including 319 acres public lands (44%) and 399 acres of private lands (56%), as determined by the use of a Geologic Information System (GIS[1]). These acreages are different from RMP information as presented above in the Introduction and in Section 3.2 of EA #ID-110-2005-EA-010. Field mapping and GIS indicates there is one less acre each of public land and private land within the proposed allotment boundary adjustment.

To incorporate updated allotment information and current grazing management guidance, it is proposed, only for Gallant Individual Allotment, to:

1. Change the allotment name from Gallant Individual #112 to Thorn Springs #112.
2. Modify the percent public land term of the grazing permit to 44 percent.
3. Develop the spring located in the northwest quarter of Section 26, T15N, R2W which is found in the southwest corner of the allotment.
4. Renew the grazing permit showing maximum authorizations for livestock numbers, season-of-use, and AUMs[2] (each of these columns would be stand-alone sections of the permit therefore standard method for calculating AUMs would not apply). Annual flexibility of livestock numbers and/or season-of-use would be allowed based on seasonal circumstances, as indicated by range readiness, or variations in permittee's management (but not solely limited to these situations). Management flexibility would be allowed provided livestock use remains within

[1] No warranty is made by the Bureau of Land Management for use of the data for purposes not intended by BLM. No warranty is made by the Bureau of land management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data. Original data were compiled from various sources. This information may not meet the national Map Accuracy Standards. This product was developed through digital means and may be updated without notification.

[2] The grazing regulations (43 CFR 4100.0-5) define an AUM, or an Animal Unit Month, as "the amount of forage necessary for the sustenance of one cow or its equivalent for a period of one month."

the sideboards of maximum livestock numbers and season-of-use, and without exceeding authorized AUMs.

5. Use Management Requirements as a tool to insure continued conformance with Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management. Management Requirements would not be a term and condition of the grazing permit.

Based on the proposed action, livestock grazing would be authorized for 64 AUMs between April 01 and August 01 each year. Terms and conditions necessary to regulate grazing activities on public land would be added to the grazing permit. Management Requirements would be used to describe utilization criteria. Term of the renewed grazing permit would be for ten years, from March 01, 2007 to February 28, 2017 and would be written as follows:

Permittee	Allotment	Livestock (maximum)	Season of Use (maximum)	Percent Public Land	Preference		
					Authorized	Suspended	Total
Gary Gallant	Thorn Springs #112	80 Cattle	04/01 to 08/01	44%	64	0	64

Following are allotment specific Terms and Conditions to be attached to the grazing permit:

1. Livestock grazing for Thorn Springs Allotment would comply with Field Manager's Proposed Decision dated (intentionally left blank at this time, date to be inserted when decision signed). Goodrich Allotment would be addressed at the conclusion of environmental assessment ID-2005-EA-011.
2. Authorized AUMs would not be exceeded on public lands. Livestock numbers and season of use, as shown above, indicate maximums that would be allowed under this permit. Permittee has discretion to manage within these numbers, provided overuse does not occur on public land.
3. Scheduled use changes require prior approval on an annual basis. From information provided in the annual application, a grazing bill would be prepared indicating authorized use for that year.
4. The annual actual use report is due within 15 days of completing your authorized annual grazing use.
5. Annual maintenance of range improvements would be completed prior to livestock entry of the allotment.
6. Turn-out date would be subject to range readiness. Range readiness occurs once soils have firmed after the spring thaw, and physiological requirements of the plants have been met.
7. Pursuant to 43 CFR 10.4(b), permittee must notify the BLM Field Manager, by telephone followed with written confirmation, immediately upon discovery of human remains, funerary objects, scared objects, or objects of cultural patrimony on federal land. Pursuant to 43 CFR 10.4(c), permittee must immediately stop any ongoing activities connected with the discovery and make a reasonable effort to protect discovered remains or object.
8. Salt and/or mineral blocks shall not be placed on public lands within one quarter (¼) mile of springs, streams, meadows, riparian habitats or aspen stands.

Following Management Requirements for Thorn Spring Allotment:

1. Utilization of perennial grass species would not exceed 50 percent of current years growth as determined by Quantitative Assessment Landscape Appearance Method (formally known as the key plant method), or other approved methods.
2. Utilization on all shrubs would not exceed 30 percent of current year's production as determined by Browse Removal Method, or other approved methods.

3.0 Affected Environment

Affected environment is discussed in the main body of this EA.

4.0 Environmental Consequences

For discussions of environmental consequences and cumulative effects of livestock grazing impacts to Special Status Plants, Wildlife – including special Status Animal species, Riparian Areas and Fisheries, Fire, Recreation, Noxious and Invasive Weeds, Cultural Resources, Forestry, and Geologic Resources, see Section 4 in the main portion of the EA.

4.1 Grazing Administration

Alternative A – No Action

If current grazing administration is to continue, use flexibility based on annual conditions would not be allowed and standards for upland utilization would not be implemented. Administration of Gallant Individual Allotment would not reflect what is actually on the ground.

Alternative B – Proposed Action

There would be minimal direct or indirect impacts from livestock grazing to any other resources with implementation of the proposed action. With proposed action implementation, on-the-ground management and grazing use authorization would be complementary and administrative records would be updated. Seasonal adjustments in livestock numbers and season of use would protect resources while maintaining multiple use of public lands. Management flexibility would not exceed maximum livestock numbers or use period sideboards, and would not exceed the authorized 64 AUMs on public lands. Implementation of management requirements would afford public land managers opportunities to maintain conformance with Grazing Regulations and Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management.

Construction of a spring development would aid in livestock distribution and would provide for better management of the allotment.

4.2 Vegetation and Soils

Approximately 85 percent of public lands on the allotment are very shallow stony soils with very little plant biomass. Areas not recently burned by wildfire still exhibits a sparse canopy cover of stiff sagebrush with an understory of annual grasses, bulbous

bluegrass, or Sandberg bluegrass. The remaining 15 percent is comprised of bitterbrush or mountain shrub canopy cover with remnant perennial bunchgrass understory.

The Evaluation and Determination indicated that applicable Standard and Guidelines are being conformed to, with no notable change to the health of native plant communities or functioning properties of the watershed.

Alternative A – No Action
Season-long grazing would continue with minimal direct or indirect impacts to vegetation and soil resources. Current impacts are in the form of mechanical harvesting of forage by livestock grazing.

Alternative B – Proposed Action
Implementation of the proposed action would result in minimal direct or indirect impacts from livestock grazing to vegetation or soil resources. Impacts, in the form of mechanical harvesting of forage by livestock grazing, would be minimized through the implementation of management flexibility and by not exceeding maximum livestock numbers, use period sideboards, the authorized 64 AUMs on public land, and management guidelines.

The proposed trough would be placed in an extremely rocky area covered by minimal vegetation. Livestock would be attracted to the trough, but trampling and heavy utilization would not occur because of the minimal vegetation and heavy rock coverage of the soil surface. The water trough would draw cattle away from the spring source, preventing the source area from being trampled.

Exhibit 9

CASE FILE COPY

AUTH NUMBER: 1101098
DATE PRINTED: 10/27/2003

Form 4130-2a
(February 1999)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

GRAZING PERMIT

STATE ID
OFFICE 095
AUTH NUMBER 1101098
PREFERENCE CODE 03
DATE PRINTED 10/27/2003
TERM 10/20/2003 TO 02/28/2013

BUREAU OF LAND MANAGEMENT
FOUR RIVERS FIELD OFFICE
3948 DEVELOPMENT AVE
BOISE ID 83705

GARY GALLANT
1677 GOODRICH RD.
COUNCIL ID 83612

THIS GRAZING PERMIT IS OFFERED TO YOU UNDER 43 CFR PART 4100 BASED ON YOUR RECOGNIZED QUALIFICATIONS. YOU ARE AUTHORIZED TO MAKE GRAZING USE OF LANDS, UNDER THE JURISDICTION OF THE BUREAU OF LAND MANAGEMENT AND COVERED BY THIS PERMIT, UPON YOUR ACCEPTANCE OF THE TERMS AND CONDITIONS OF THIS PERMIT AND PAYMENT OF GRAZING FEES WHEN DUE. CONTACT YOUR LOCAL BLM OFFICE AT 208-384-3300 IF YOU HAVE QUESTIONS.

MANDATORY TERMS AND CONDITIONS

GRAZING SCHEDULE:

ALLOTMENT	PASTURE	LIVESTOCK NUMBER	KIND	GRAZING BEGIN	PERIOD END	%PL	TYPE USE	AUMS
00016 GOODRICH COMMON		58	CATTLE	05/15	06/30	100	ACTIVE	90
		58	CATTLE	10/15	10/25	100	ACTIVE	21
00112 GALLANT INDIV.		64	CATTLE	04/01	05/31	50	ACTIVE	64

OCT 29 2003

CASE FILE COPY

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DATE PRINTED: 10/27/2003

OTHER TERMS AND CONDITIONS:

KEY RIPARIAN BROWSE VEGETATION WILL NOT BE USED MORE THAN 50% OF THE CURRENT ANNUAL TWIG GROWTH THAT IS WITHIN REACH OF THE ANIMALS.

KEY HERBACEOUS RIPARIAN VEGETATION ON RIPARIAN AREAS, OTHER THAN THE STREAMBANKS, WILL NOT BE GRAZED MORE THAN 50% DURING THE GROWING SEASON, OR 60% DURING THE DORMANT SEASON.

****

TURN-OUT IS SUBJECT TO BOISE DISTRICT RANGE READINESS CRITERIA.

YOUR CERTIFIED ACTUAL USE REPORT IS DUE WITHIN 15 DAYS OF COMPLETING YOUR AUTHORIZED ANNUAL GRAZING USE.

SALT AND/OR SUPPLEMENT SHALL NOT BE PLACE WITHIN ONE QUARTER 1/4 MILE OF SPRINGS, STREAMS, MEADOWS, ASPEN STANDS, PLAYAS OR WATER DEVELOPMENTS.

CHANGES TO THE SCHEDULED USE REQUIRES PRIOR APPROVAL.

TRAILING ACTIVITIES MUST BE COORDINATED WITH THE BLM PRIOR TO INITIATION. A TRAILING PERMIT OR SIMILIAR AUTHORIZATION MAY BE REQUIRED PRIOR TO CROSSING PUBLIC LANDS.

LIVESTOCK EXCLOSURES LOCATED WITHIN YOUR GRAZING ALLOTMENTS ARE CLOSED TO ALL DOMESTIC GRAZING USE.

RANGE IMPROVEMENTS MUST BE MAINTAINED IN ACCORDANCE WITH THE COOPERATIVE AGREEMENTS AND RANGE IMPROVEMENTS PERMITS IN WHICH YOU ARE A SIGNATOR OR ASSIGNEE. ALL MAINTENANCE OF RANGE IMPROVEMENTS WITHIN A WILDERNESS STUDY AREA REQUIRES PRIOR CONSULTATION WITH THE AUTHORIZED OFFICER.

ALL APPROPRIATE DOCUMENTATION REGARDING BASE PROPERTY LEASES, LANDS OFFERED FOR EXCHANGE-OF-USE, AND LIVESTOCK CONTROL AGREEMENTS MUST BE APPROVED PRIOR TO TURN-OUT. LEASES OF LAND AND/OR LIVESTOCK MUST BE NOTARIZED PRIOR TO SUBMISSION AND BE IN COMPLIANCE WITH BOISE DISTRICT POLICY.

FAILURE TO PAY THE GRAZING BILL WITHIN 15 DAYS OF THE DUE DATE SPECIFIED SHALL RESULT IN A LATE FEE ASSESSMENT OF $25.00 OR 10 PERCENT OF THE GRAZING BILL, WHICHEVER IS GREATER, NOT TO EXCEED $250.00. PAYMENT MADE LATER THAN 15 DAYS AFTER THE DUE DATE, SHALL INCLUDE THE APPROPRIATE LATE FEE ASSESSMENT. FAILURE TO MAKE PAYMENT WITHIN 30 DAYS MAY BE A VIOLATION OF 43 CFR 4140.1(B)(1) AND SHALL RESULT IN ACTION BY THE AUTHORIZED OFFICER UNDER 43 CFR 4150.1 AND 4160.1-2.

ALLOT NO	CONDITIONS
(none)	

ALLOTMENT SUMMARY (AUMS)

ALLOTMENT	ACTIVE AUMS	SUSPENDED AUMS	PERMITTED USE
00016 GOODRICH COMMON	111	96	207
00112 GALLANT INDIV.	64	0	64

OPERATOR COPY

AUTH NUMBER: 1101098
DATE PRINTED: 10/27/2003

Standard
Terms and Conditions

1. Grazing permit or lease terms and conditions and the fees charged for grazing use are established in accordance with the provisions of the grazing regulations now or hereafter approved by the Secretary of the Interior.

2. They are subject to cancellation, in whole or in part, at any time because of:
   a. Noncompliance by the permittee/lessee with rules and regulations.
   b. Loss of control by the permittee/lessee of all or a part of the property upon which it is based.
   c. A transfer of grazing preference by the permittee/lessee to another party.
   d. A decrease in the lands administered by the Bureau of Land Management within the allotment(s) described.
   e. Repeated willful unauthorized grazing use.
   f. Loss of qualifications to hold a permit or lease.

3. They are subject to the terms and conditions of allotment management plans if such plans have been prepared. Allotment management plans MUST be incorporated in permits or leases when completed.

4. Those holding permits or leases MUST own or control and be responsible for the management of livestock authorized to graze.

5. The authorized officer may require counting and/or additional or special marking or tagging of the livestock authorized to graze.

6. The permittee's/lessee's grazing case file is available for public inspection as required by the Freedom of Information Act.

7. Grazing permits or leases are subject to the nondiscrimination clauses set forth in Executive Order 11246 of September 24, 1964, as amended. A copy of this order may be obtained from the authorized officer.

8. Livestock grazing use that is different from that authorized by a permit or lease MUST be applied for prior to the grazing period and MUST be filed with and approved by the authorized officer before grazing use can be made.

9. Billing notices are issued which specify fees due. Billing notices, when paid, become a part of the grazing permit or lease. Grazing use cannot be authorized during any period of delinquency in the payment of amounts due, including settlement for unauthorized use.

10. Grazing fee payments are due on the date specified on the billing notice and MUST be paid in full within 15 days of the due date, except as otherwise provided in the grazing permit or lease. If payment is not made within that time frame, a late fee (the greater of $25 or 10 percent of the amount owed but not more than $250) will be assessed.

11. No Member of, or Delegate to, Congress or Resident Commissioner, after his/her election of appointment, or either before or after he/she has qualified, and during his/her continuance in office, and no officer, agent, or employee of the Department of the Interior, other than members of Advisory committees appointed in accordance with the Federal Advisory Committee Act (5 U.S.C. App.1) and Sections 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) shall be admitted to any share or part in a permit or lease, or derive any benefit to arise therefrom; and the provision of Section 3741 Revised Statute (41 U.S.C. 22), 18 U.S.C. Sections 431-433, and 43 CFR Part 7, enter into and form a part of a grazing permit or lease, so far as the same may be applicable.

THIS PERMIT: 1. CONVEYS NO RIGHT, TITLE OR INTEREST HELD BY THE UNITED STATES IN ANY LANDS OR RESOURCES AND 2. IS SUBJECT TO (A) MODIFICATION, SUSPENSION OR CANCELLATION AS PROVIDED BY LAND PLANS AND APPLICABLE LAW; (B) REVIEW AND MODIFICATION OF TERMS AND CONDITIONS AS APPROPRIATE; AND (C) THE TAYLOR GRAZING ACT, AS AMENDED, THE FEDERAL LAND POLICY AND MANAGEMENT ACT, AS AMENDED, THE PUBLIC RANGELANDS IMPROVEMENT ACT, AND THE RULES AND REGULATIONS NOW OR HEREAFTER PROMULGATED THEREUNDER BY THE SECRETARY OF THE INTERIOR.

ACCEPTED:
SIGNATURE OF PERMITTEE: Terry D. Gallant DATE: 11-3-03

APPROVED
BLM AUTHORIZED OFFICER: J Raymond Pearce DATE: 11-19-03

Exhibit 10

ADAM R.F. GUSTAFSON
Principal Deputy Assistant Attorney General
Environment and Natural Resources Division

MARK WIDERSCHEIN
KATHARINE LAUBACH
MICHELLE NKENG
U.S. Department of Justice
Environment and Natural Resources Division
Natural Resources Section
150 M. St. NE
Washington D.C. 2002
mark.widerschein@usdoj.gov

Counsel for the United States of America

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: 67-15208
Case No. 39576	)	UNITED STATES' FIRST REQUESTS FOR ADMISSION, INTERROGATORIES, AND REQUESTS FOR PRODUCTION TO GARY GALLANT

TO: Gary Gallant
1677 Goodrich Road
Council, ID 83612

Pursuant to Rules 26, 33, 34, and 36 of the Idaho Rules of Civil Procedure ("IRCP"), the United States of America on behalf of the Bureau of Land Management, through undersigned counsel, hereby serves these interrogatories, requests for admissions, and requests for production of documents (collectively, the "Requests"). **You are required to make your responses no later than thirty (30) days after service of these requests on you.**

I. General Instructions

A. These Requests cover all documents and information in your possession, custody or control and all documents and other sources of information to which you have access, regardless of whether the source is within your immediate possession or control. You must also consult all documents in the possession of your experts, consultants, agents, representatives, or other such third parties. If you cannot respond to a Request in full after exercising due diligence to secure the information, so state in your response, describe the nature and extent of your efforts, and, to the extent possible, produce whatever information you have.

B. Pursuant to Rules 33, 34 and 36 of the IRCP, you have 30 days from the date of service of these Requests to provide a written response. You must serve your response by mail upon Objector's counsel, who is identified below, or in any other manner agreed to by the parties.

C. Requests for Production. You must produce the documents requested herein in a timely fashion pursuant to Rule 34 of the IRCP and as set forth in General Instruction B. For each document you produce in response to these Requests, indicate the following on the document or in some other reasonable manner:

1. The number of the Request to which it responds; AND
2. The source of the document.

If anything is deleted from a document produced in response to these Requests, state:

1. The reason for the deletion;
2. The subject matter of the deletion; and
3. The identity of the person responsible for the deletion.

You may deliver photocopies of any document in lieu of originals.

D. Requests for Admission. You must answer each request for admission in a timely fashion pursuant to Rule 36 of the IRCP and as set forth in General Instruction B. Any request that goes unanswered within the time frame allowed by the IRCP will be deemed admitted. Any denial of a request for admission must set forth in detail the reasons why the answering party cannot truthfully admit the matter and must fairly meet the substance of the request. When good faith requires that you qualify your answer or deny only a part for the matter of

which an admission is requested, you must specify the portions of the request to which you admit and then deny or qualify your answer to the remainder. As set forth in Rule 36, that you may consider the matter about which a request has been made to be one that presents a genuine issue for trial does not, by itself, permit you to object to the request or deny it.

E. Interrogatories. You must answer each interrogatory in a timely fashion pursuant to Rule 33 of the IRCP and as set forth in General Instruction B. You must answer each interrogatory separately and fully in writing and under oath. The answers must be signed by the person making the answers.

F. When asked to "identify" a person, provide the person's:
1. Full name;
2. Home address and telephone number;
3. Employer, business address, and telephone number; and
4. Position or occupation.

G. If the person is a corporation, partnership or other business entity, provide:
1. The full name of the business:
2. The type of business;
3. Its state of incorporation or organization;
4. Its date of incorporation;
5. The location and address of its principal headquarters; and
6. The name, title, and address of its chief responsible officer.

H. When asked to "identify" a document, provide the following:
1. The title or caption, or if it has no title, its subject matter;
2. Its date of origin;
3. An identification of the author(s);
4. An identification of the persons to whom it and all copies were sent;
5. The present location of the document; and
6. An identification of the custodian of the document.

If a document is not presently in your possession, custody or control, identify in whose possession, custody or control it may be found. If a document you have identified no longer exists, identify it and explain the circumstances of its loss or destruction.

I. Any objections to any portion of these Requests must specifically state the grounds for your objection. If you cannot respond to a Request in full after exercising due diligence to secure the information, so state in your response and, to the extent possible, produce whatever information you have. You may not give lack of information or knowledge as a reason for failure to respond to any portion of these Requests unless you have made reasonable inquiry and unless the information known or readily obtainable by you is insufficient to enable you to respond.

J. If you withhold any document requested below on a claim of privilege, identify

the privilege you claim and identify and describe in detail all facts that support your assertion of the privilege including, but not limited to:

1. The title or caption of the document, or if it has no title, its subject matter;
2. Its date of origin;
3. An identification of the author(s);
4. An identification of the persons to whom it and all copies were sent;
5. The present location of the document;
6. An identification of the custodian of the document;
7. The nature of the document withheld (i.e., letter, memorandum, telex, facsimile, tape, video cassette, etc.);
8. The general subject matter of the document;
9. Its disposition, if the document is no longer in the possession of or subject to the control of plaintiff; and
10. The basis on which any privilege is claimed.

K. Words used in the plural shall also mean and include the singular. Words used in the singular shall also mean and include the plural. "Or" and "and" shall be construed conjunctively and disjunctively to bring within the scope of these interrogatories any information that might otherwise be construed to be outside their scope. The past tense includes the present tense where the clear meaning is not distorted by change of tense.

L. Please mail your responses to:

Mark Widerschein
United States Department of Justice
Environment & Natural Resources Division
Natural Resources Section
P.O. Box 7611
Washington, D.C. 20044-7611

Or e-mail your responses to:
Mark.Widerschein@usdoj.gov.

M. Please note and comply with the duty to supplement and amend responses to this Request under Idaho Rule of Civil Procedure 26(e).

N. You may attach extra pages for your responses if the space provided is insufficient.

DEFINITIONS

A. "**Bureau of Land Management**" means the present-day Bureau of Land Management, along with its predecessor agencies, including but not limited to the General Land Office and the Grazing Service.

B. "**Document**" or "**documents**" shall be used in their broadest sense and include, but are not limited to, the originals, marked copies, translations and drafts, regardless of origin, whether sent or received, whether made and/or used internally, and both sides thereof, of the following items, whether printed, recorded, taped, written by hand, typed, or reproduced or stored by any mechanical or electronic process: agreements, brochures, communications, contracts, correspondence, deeds, diaries, endorsements appearing in or on any document or documents, letters, telegrams, telex, facsimile, messages, electronic messages, books, summaries or other records of telephone conversations or interviews, summaries or other records of personal conversations, photographs, charts, tabulations, purchase orders, receipts, sell orders, checks, canceled checks, letters of credit, envelopes or folders or similar containers, vouchers, analyses, studies, transcripts of hearings, pleadings and other documents filed in court actions, speeches, newspaper articles, reports, compilations, memos, maps, charts, graphs, tables, memoranda, consultant reports, minutes of meetings or conferences (however they are entitled), notes of any kind, plats or graphic portrayals of any kind, water rights decrees, water release records, prospectus-type material, extracts or summaries of other documents, logs, solicitations, summaries or records of negotiations or investigations, telegrams, tapes, video tapes, computer printouts, computer tapes, computer programs, microfiche, microfilm, computer-generated, computer-stored, electronically-stored matter, and any and all other writings, drawings, graphs, charts, photographs or other data compilations in whatever form they exist, however and by whomever produced, prepared, reproduced, disseminated, or made.

C. "**Relate**," "**refer**," "**related**," "**relating**," "**referring**" or "**regarding**" means having some bearing on an indicated subject matter or mentioning or reflecting the subject matter in any manner or context.

D. "**You**" or "**your**" means the Claimant(s) to whom these Requests are addressed, including, but not limited to, all past and present officers, directors, employees, agents, servants, representatives of each such entity or individual, and each past and present attorney of each such entity or individual.

E. "**Describe in detail**" means describe fully by reference to the underlying facts, rather than the ultimate facts or conclusions of law or facts, and particularize as to:

1. The identity of each person involved in each such event, including but not limited to persons employed by you and those persons purporting to act for you;
2. The specific acts of each person's participation in each such event;
3. The date and time of each such event; and
4. The address and location of each such event.

F. **"Claim"** or **"Claims"** means Water Right Claim No. 67-15208, as well as any associated Motions for Determination filed with the Court.

G. **"Director's Report"** means a recommendation of a water right claim issued by the Director of the Idaho Department of Water Resources ("IDWR") that is filed with the Snake River Basin Adjudication Court.

H. "**Your predecessors**" means any other previous owner of the Base Property, places of use and/or points of diversion for the Claim.

I. "**Personal knowledge**" means knowledge gained through firsthand observation or experience, as distinguished from a belief based on what someone else has said.

J. "**United States**" means the United States of America, its agencies and instrumentalities, and any and all employees, representatives, and agents thereof acting in their official capacities.

K. **"Your land"** means the private land associated with the Claim as Base Property, if any.

L. "**Grazing Permit**" or "**Term Grazing Permit**" means any permit, or other authorization in writing issued and approved by the United States, authorizing grazing of federal public lands by livestock (43 CFR §4100.0-5 (2005)).

M. "**Base Property**" means land that has the capability to produce crops or forage that can be used to support authorized livestock for a specified period of the year (43 CFR §4100.0-5 (2005)). It is capable of serving as a base of operation for livestock use of public lands within a grazing district (43 CFR §4110.2-1(a)(1) (2005)).

N. "**Grazing preference**" means a superior or priority position against others for the purpose of receiving a grazing permit. This priority is attached to Base Property owned or controlled by the permittee (43 CFR §4110.0-5 (2005)).

O. "**Range improvement**" means an authorized physical modification or treatment which is designed to: improve production of forage; change vegetation composition; control patterns of use; provide water; stabilize soil and water conditions; or restore, protect and improve the condition of rangeland ecosystems to benefit livestock, wild horses and burros, and fish and wildlife. The term includes, but is not limited to, headboxes, pipelines, troughs, structures, treatment projects, fences, wells, diversions, dams, ponds, and use of mechanical devices or modifications achieved through mechanical means (43 CFR §4100.0-5 (2005)).

P. "**Land conveyance document**" means a document of conveyance of real property or a real property interest, and includes but is not limited to general or special warranty deeds, patents, titles, assignments, contracts, but "land conveyance document"

specifically does not include any Grazing Permit, Term Grazing Permit, Special Use Permit, other permit, or easement issued by the United States.

Q. "**Legal title**" refers to any instrument in writing which conveys an interest in land from a grantor to the grantee, but "legal title" specifically does not include any Grazing Permit, Term Grazing Permit, Special Use Permit, other permit, or easement issued by the United States.

R. "**Objection**" or "**Objections**" means the Objections filed by the Bureau of Land Management to the Director's Report for the Claim you filed.

S. "**Protest**" means a written filing opposing an application, claim or appeal of a right, license, award or authority sought by an applicant in IDWR's administrative arena or Allocations Bureau.

T. When requested to identify the proper "**Elements**" of the claims consolidated herein, it means to identify the owner(s); place(s) of use by legal description, referencing all legal descriptions by section or quarter section of any section, township, and range, as applicable; type of right; purpose (use) of right; maximum amount of acres irrigated, if purpose (use) of right is irrigation; source; priority date; point(s) of diversion, by legal description, referencing all legal descriptions by section or quarter section of any section, township, and range, as applicable; flow rate; period of diversion; means of diversion; volume; period of use; and irrigation type (*i.e.*, flood or sprinkler), if purpose (use) of right is irrigation.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Admit that you do not possess legal title to the land described as the point of diversion asserted in the Claim.
RESPONSE:

REQUEST FOR ADMISSION NO. 2: Admit that you do not possess legal title to the land described as the place of use asserted in the Claim.
RESPONSE:

REQUEST FOR ADMISSION NO. 3: Admit that the United States owns the land asserted as the point of diversion in the Claim.
RESPONSE:

REQUEST FOR ADMISSION NO. 4: Admit that the United States owns the land asserted as the place of use in the Claim.
RESPONSE:

REQUEST FOR ADMISSION NO. 5: Admit that you have no land conveyance document that specifically describes water rights which defines the point of diversion asserted in your Claim.
RESPONSE:

REQUEST FOR ADMISSION NO. 6: Admit that you have no land conveyance document that specifically describes water rights which defines the place of use asserted in the Claim.
RESPONSE:

REQUEST FOR ADMISSION NO. 7: Admit that you have no land conveyance document that specifically describes water rights which define the water source asserted in your Claim.
RESPONSE:

REQUEST FOR ADMISSION NO. 8: Admit that you have no conveyance document which conveys an interest in the surface estate or mineral estate for the lands described as points of diversion and/or places of use asserted in your Claim.
RESPONSE:

REQUEST FOR ADMISSION NO. 9: Admit that you have authorized access to graze livestock on the federally-owned land described as the places of use in your Claim pursuant only to a Grazing Permit(s) issued to you by the Bureau of Land Management.
RESPONSE:

REQUEST FOR ADMISSION NO. 10: Admit that you have no legally cognizable interest in the land described as the points of diversion or places of use asserted in your Claim.
RESPONSE:

REQUEST FOR ADMISSION NO. 11: Admit that the Taylor Grazing Act states that "grazing privileges recognized and acknowledged shall be adequately safeguarded, but the creation of a grazing district or the issuance of a permit pursuant to the provisions of this Act shall not create any right, title, interest, or estate in or to the lands."
RESPONSE:

REQUEST FOR ADMISSION NO. 12: Admit that you have no documentary evidence of grazing by anyone on the claimed place of use as of March 31, 1915.
RESPONSE:

REQUEST FOR ADMISSION NO. 13: Admit that Patent No. 708159 (Instrument No. 12010, dated August 26, 1919) attached to your Claim describes a property of 320 acres in the SENE, N2SE, and SESE of Section 22 and the W2NW and W2SW of Section 23 in Township 15N, Range 2W, Boise Meridian.
RESPONSE:

REQUEST FOR ADMISSION NO. 14: Admit that the property described in Request for Admission No. 13 is not the base property identified by IDWR in the Director's Report for the

Claim.
RESPONSE:

REQUEST FOR ADMISSION NO. 15: Admit that the Indenture (Instrument No. 18238, dated October 25, 1930) attached to your Claim conveyed from Charles and Frances Lane to Earl H. Gallant a property of 320 acres in the NENE, S2NE, SENW, NESW, and NWSE of Section 23 and the W2NW of Section 24 in Township 15N, Range 2W, Boise Meridian.
RESPONSE:

REQUEST FOR ADMISSION NO. 16: Admit that the property described in Request for Admission No. 15 is not the base property identified by IDWR in the Director's Report for the Claim.
RESPONSE:

REQUEST FOR ADMISSION NO. 17: Admit that the conveyance described in Request for Admission No. 15 does not reference conveyance of water rights.
RESPONSE:

REQUEST FOR ADMISSION NO. 18: Admit that the Indenture (Instrument No. 18239, dated May 28, 1930) attached to your Claim conveyed from Earl H. Gallant and Frieda Gallant to Charles Lane the NENE, SENE, N2SE, and SESE of Section 22 and the SWNW and W2SW of Section 23, Township 15N, Range 2W, save a right of way.
RESPONSE:

REQUEST FOR ADMISSION NO. 19: Admit that the property described in Request for Admission No. 18 is not the base property identified by IDWR in the Director's Report for the Claim.
RESPONSE:

REQUEST FOR ADMISSION NO. 20: Admit that the conveyance described in Request for Admission No. 18 does not reference conveyance of water rights.
RESPONSE:

REQUEST FOR ADMISSION NO. 21: Admit that Earl H. Gallant applied to transfer grazing privileges under Bureau of Land Management Permit No. 257236 to Glenn W. Gallant on March 11, 1952.
RESPONSE:

REQUEST FOR ADMISSION NO. 22: Admit that the request to transfer described in Request for Admission No. 21 was the first evidence of grazing on Bureau of Land Management land associated with your present-day Base Property.
RESPONSE:

REQUEST FOR ADMISSION NO. 23: Admit that the request to transfer described in Request for Admission No. 21 describes a Bureau of Land Management permit dated March 1, 1951.
RESPONSE:

REQUEST FOR ADMISSION NO. 24: Admit that the priority date for the Claim could be no earlier than March 1, 1951.
RESPONSE:

REQUEST FOR ADMISSION NO. 25: Admit that Forest Service grazing authorizations do not authorize or demonstrate grazing on federal land managed by the Bureau of Land Management.
RESPONSE:

REQUEST FOR ADMISSION NO. 26: Admit that the March 31, 1915 permit authorizing E.H. Gallant to graze 9 head of cattle on the Cuddy Mt. Allotment in District 4 of the Payette National Forest did not authorize grazing on federal land managed by the Bureau of Land Management.
RESPONSE:

REQUEST FOR ADMISSION NO. 27: Admit that the Bureau of Land Management provided $100 for water rights, $3000.00 for materials and equipment to construct, and $1000.00 for labor for construction of the Thorn Spring Development.
RESPONSE:

REQUEST FOR ADMISSION NO. 28: Admit that you provided no labor, materials, construction, or monetary support for construction of the Thorn Spring Development.
RESPONSE:

REQUEST FOR ADMISSION NO. 29: Admit that the Cooperative Range Improvement Agreement which authorized the Thorn Spring Development included a term stating that "it is further agreed ... (b) title to permanent or nonstructural improvements authorized by this agreement shall be in the United States of America."
RESPONSE:

REQUEST FOR ADMISSION NO. 30: Admit that the Cooperative Range Improvement Agreement which authorized the Thorn Spring Development included a term stating that "any water right acquired on or after August 21, 1995 to use water on public lands associated with this improvement shall be held in the name of the United States[.]"
RESPONSE:

REQUEST FOR ADMISSION NO. 31: Admit that you signed the Cooperative Range Improvement Agreement containing the terms described in Request for Admission Nos. 27-30 on April 29, 2007.
RESPONSE:

REQUEST FOR ADMISSION NO. 32: Admit that the Cooperative Range Improvement Agreement you signed constitutes an agency agreement with the Bureau of Land Management through which you agreed to maintain and use the Bureau of Land Management's water development for stockwatering.
RESPONSE:

REQUEST FOR ADMISSION NO. 33: Admit that the Cooperative Range Improvement Agreement you signed constitutes an agency agreement with the Bureau of Land Management such that you utilize the Bureau of Land Management's water right for stockwatering.
RESPONSE:

REQUEST FOR ADMISSION NO. 34: Admit that the Bureau of Land Management is the sole owner of the Thorn Spring Development.
RESPONSE:

REQUEST FOR ADMISSION NO. 35: Admit that the Bureau of Land Management is the sole owner of any water rights in Thorn Spring.
RESPONSE:

REQUEST FOR ADMISSION NO. 36: Admit that the Bureau of Land Management has exclosed the Thorn Spring development with a fence.
RESPONSE:

REQUEST FOR ADMISSION NO. 37: Admit that the Bureau of Land Management has not authorized you to convey a water right through the Thorn Spring development.
RESPONSE:

REQUEST FOR ADMISSION NO. 38: Admit that your 2003-2013 grazing permit included a term stating that "livestock exclosures located with your grazing allotments are closed to all domestic grazing use."
RESPONSE:

REQUEST FOR ADMISSION NO. 39: Admit that an exclosure is defined by the Bureau of Land Management as "an area fenced to exclude animals."
RESPONSE:

REQUEST FOR ADMISSION NO. 40: Admit that you have not watered livestock instream at Thorn Spring since the exclosure was installed in 2007.
RESPONSE:

REQUEST FOR ADMISSION NO. 41: Admit that any livestock watering at Thorn Spring since 2007 has been via the development installed and owned by Bureau of Land Management.
RESPONSE:

REQUEST FOR ADMISSION NO. 42: Admit that grazing within the exclosure would be trespass in violation of your permit terms and federal regulations.
RESPONSE:

REQUEST FOR ADMISSION NO. 43: Admit that you cannot appropriate a water right in trespass under Idaho law.
RESPONSE:

REQUEST FOR ADMISSION NO. 44: Admit that the entire flow of Thorn Spring is captured by the Thorn Spring Development such that there is no instream flow available.
RESPONSE:

REQUEST FOR ADMISSION NO. 45: Admit that any instream water right at Thorn Spring you may have appropriated before 2007 has been forfeited by more than five years of non-use.
RESPONSE:

INTERROGATORIES

INTERROGATORY NO. 1: Please identify each person who provided information for, or participated in, the preparation of the responses to these discovery requests, including but not limited to consultants, and identify the specific discovery requests or parts thereof, for which each such person provided information.
RESPONSE:

INTERROGATORY NO. 2: Please identify each person who has personal knowledge of the facts that form the basis for your Claim to a water right.
RESPONSE:

INTERROGATORY NO. 3: Please identify each person whom you may rely on as a witness, expect to call as a witness, or will provide testimony of any kind during the course of this proceeding.
RESPONSE:

INTERROGATORY NO. 4: For each person identified in response to Interrogatory No. 3 above that you may call as a witness at trial, please state the subject matter on which the individual is expected to testify.
RESPONSE:

INTERROGATORY NO. 5: For each person identified in response to Interrogatory No. 3 above that you may call as a witness at trial of this case, please state a thorough and explicit summary of the expected testimony of each individual.
RESPONSE:

INTERROGATORY NO. 6: For each person identified in response to Interrogatory No. 3 that you expect to call as an expert witness in this proceeding, please describe all facts known and opinions held by such experts in connection with this proceeding, including the following information required by Idaho R. Civ. P. 26(b)(4)(A)(i): A complete statement of all opinions to be expressed and the basis and reasons therefore; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; any qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years; the compensation to be paid for the testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.
RESPONSE:

INTERROGATORY NO. 7: Please identify all documents, writings, drawings, data, compilations or other material that you intend to introduce as an exhibit or intend to ask any witness to examine during a trial of this case.
RESPONSE:

INTERROGATORY NO. 8: Please identify all documents, writings, drawings, data, compilations or other materials that you reviewed in preparing your responses to these discovery requests.
RESPONSE:

INTERROGATORY NO. 9: For each Request for Admissions Nos. 1-45 for which your response is anything other than an unqualified admission:

a) Please state the basis for your response including all facts that support, in any way, your denial, partial denial, or qualified response to the request; and
b) Please identify each person who has information that supports, in any way, your denial, partial denial, or qualified response to the request.

RESPONSE:

INTERROGATORY NO. 10: Please state what you believe to be the correct elements of Claim No. 67-15208, including but not limited to the priority date, and state the factual basis for the priority date.
RESPONSE:

INTERROGATORY NO. 11: Please state what you believe to be the factual basis for the priority date.
RESPONSE:

INTERROGATORY NO. 12: Please state what you believe to be the base property for your Bureau of Land Management grazing permit(s).
RESPONSE:

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Please produce all documents identified in response to, or reviewed, referred to, or relied upon in preparing your responses to, the foregoing Requests for Admission and Interrogatories.
RESPONSE:

REQUEST FOR PRODUCTION NO. 2: Please produce all documents you relied upon, or which formed the basis for, any denial (in whole or in part) of the foregoing Requests for Admission.
RESPONSE:

REQUEST FOR PRODUCTION NO. 3: Please produce all documents you may rely upon at trial or any hearing in this matter, in support of dispositive motions, or in opposition to dispositive motions, or at any other stage of this proceeding.
RESPONSE:

REQUEST FOR PRODUCTION NO. 4: Please produce all documents you may rely upon at trial or any hearing in this matter, in support of dispositive motions, or in opposition to dispositive motions, or at any other stage of this proceeding.
RESPONSE:

REQUEST FOR PRODUCTION NO. 5: Please produce all documents that you purport give you an interest in the surface estate for the legal land descriptions asserted as the point of diversion and/or places of use described in your Claim.
RESPONSE:

REQUEST FOR PRODUCTION NO. 6: Please produce all land conveyance documents, records, instruments and deeds which demonstrate any ownership interest in the land asserted as a point of diversion and/or places of use in your Claim.
RESPONSE:

REQUEST FOR PRODUCTION NO. 7: Please produce all conveyance documents, records, instruments and deeds which demonstrate ownership of each and every legal land description comprising the base property identified in your response to Interrogatory No. 12 from the present day back to your claimed priority date.
RESPONSE:

REQUEST FOR PRODUCTION NO. 8: Please produce all conveyance documents, records, instruments and deeds which conveyed ownership of personal property in the form of livestock from your predecessors to their successors from present day back to the original Patentees of base property identified in your response to Interrogatory No. 12.
RESPONSE:

REQUEST FOR PRODUCTION NO. 9: Please produce a copy of all grazing files, permits, and documents related to use of the Thorn Spring and Goodrich Allotments by you and your predecessors.
RESPONSE:

REQUEST FOR PRODUCTION NO. 10: Please produce a copy of all documents not produced in response to the foregoing Requests for Production that you assert supports your Claim.
RESPONSE:

REQUEST FOR PRODUCTION NO. 11: Please produce any and all documents, including but not limited to reports, summaries, or surveys, including drafts of any of the foregoing, that each expert witness you may call at trial reviewed or is expected to review in forming the grounds for his or her anticipated testimony.
RESPONSE:

REQUEST FOR PRODUCTION No. 12: Please produce all documents, writings, drawings, data, compilations or other materials you intend to introduce as exhibits or intend to ask any witness to examine during a trial of this case.
RESPONSE:

REQUEST FOR PRODUCTION NO. 13: Please produce all documents that you provided to any third party, consultant, or expert related to any water use issue related to this water right adjudication, regardless of whether you intend to call that person as a witness at any trial or hearing in this case.
RESPONSE:

REQUEST FOR PRODUCTION NO. 14: Please produce all documents provided to you by any third party, consultant, or expert related to any water use issue related to this water right adjudication, regardless of whether you intend to call that person as a witness at any trial or hearing in this case.
RESPONSE:

DATED this 23rd day of April, 2026.

Respectfully submitted,

Adam R.F. Gustafson
Principal Deputy Assistant Attorney General

/s/ Mark J. Widerschein
Mark J. Widerschein
Michelle Nkeng
Katharine Laubach
Trial Attorneys
U.S. Department of Justice
Environment and Natural Resources Division

Attorneys for the United States of America

CERTIFICATE OF SERVICE

I certify that on this ____ day of _____, 2026, I served a true and correct copy of the foregoing **UNITED STATES' FIRST SET OF REQUESTS FOR ADMISSION, INTERROGATORIES, AND REQUESTS FOR PRODUCTION TO GAR GALLANT** as indicated below:

via U.S. Mail:

GALLANT, GARY
1677 GOODRICH RD
COUNCIL, ID 83612

_____
Person serving document

Exhibit 11

SRBA

ID DEPARTMENT OF WATER - CRAIG SAXTON

30(b)(6)

July 09, 2026

DEPOIDAHO
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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. 67-15208
Case No. 39576	) (Gallant)
_____	)

30(b)(6) DEPOSITION OF IDAHO DEPARTMENT OF WATER RESOURCES, TESTIMONY OF CRAIG SAXTON

TAKEN JULY 9, 2026

REPORTED REMOTELY BY:

BEVERLY A. BENJAMIN, CSR No. 710

Notary Public

THE 30(b)(6) DEPOSITION OF IDAHO DEPARTMENT OF WATER RESOURCES, TESTIMONY OF CRAIG SAXTON, was taken on behalf of the United States of America, Bureau of Land Management, via Zoom videoconference, commencing at 10:07 a.m. on July 9, 2026 before Beverly A. Benjamin, Certified Shorthand Reporter and Notary Public within and for the State of Idaho, in the above-entitled matter.

APPEARANCES:

[Via Remote Videoconference]

For Bureau of Land Management:

US Department of Justice
Natural Resources Section
BY MR. MARK WIDERSCHEIN
150 M Street NE
Washington, DC 20002
mark.widerschein@usdoj.gov

For IDWR:

Idaho Department of Water Resources
Office of the Attorney General
BY MS. LACEY RAMMELL-O'BRIEN
P.O. Box 83720
Boise, Idaho 83720-0098
lacey.rammell-obrien@idwr.idaho.gov

(Appearances continued.)

ALSO PRESENT: Gary Gallant
Carole Gallant
Marina Snyder, BLM
Dorothy Tinkler, BLM
Kinsey Garn, IDWR
Matt Pickett, IDWR
Fredric W. Price, IDWR
Annie Nice, DepoIdaho

A. I see a vegetation in green, it looks like trees and shrubs. It looks like the vegetation has possibly a fence line or some sort of manmade structure around it that forms, it looks like it's a box around it. In the upper left I see what looks like power lines that travel to the right. I also see between power lines and the structure some sort of manmade structure right there, which --

MS. CAROLE GALLANT: That's gone to subdivision in that area there.

MR. WIDERSCHEIN: Again, I will ask you not to weigh in on the record.

Q. (BY MR. WIDERSCHEIN) Okay. Thank you.

Did you look at aerial imagery similar to this when you conducted your analysis?

A. I did not.

Q. I'll have you go to the next one, which I will note is dated August 2, 2019.

A. Okay.

Q. Can you describe what you see in this photo?

A. Very similar, it's darker, from a different angle, but I see essentially the same things. The vegetation and green area surrounded by a possible what I would think is a fence line, some power poles, a manmade structure kind of along a road, or a dirt road

A. No.

Q. So you can't tell us if there's water available on the surface here.

A. I can't definitively tell you that, no.

Q. As you previously noted in this image, fair to say that that area of green is inside the, I think you said fence or manmade structure?

A. Inside what appears to be a fence or manmade structure. I don't know if it is. It's an assumption.

Q. I will represent there is a fence. I'm not trying to hide the ball on the fence, just trying to quote you accurately.

A. Okay.

Q. So if we go back briefly to your recommendation, the final page of the director's report, we previously discussed that you have it listed as spring tributary sinks.

A. Yes.

Q. And you have noted that sinks means that it doesn't run into a named different body of water; is that right?

A. Yes.

Q. When you view these aerials, fair to say that it sinks within the fence?

A. Yes. I think that's at least -- yeah, I'll

say now it does.

Q. Do you have any evidence that water exits the fence?

A. No.

Q. If any flow leaving the spring sinks entirely within BLM property, that would be defined as private water under State law; is that right?

A. Private water is a -- I am not comfortable making that legal determination.

Q. Okay. That's fine.

Would that be a relevant consideration to a director's report?

A. I don't know. It has not been a question that I have had to deal with before in a director's report situation. Nobody has asserted that it's private water. You can't speculate.

Q. Do you have any role in the permit process? So if someone were to seek a post-'71 permit license, et cetera, do you do anything with that?

A. I personally don't. I supervise the people that do, but I don't actually process those.

Q. To the best of your knowledge, could a permit be issued for a source that sinks on one party's land?

A. Not without authorization from the owner of the property.

Q. Do you see any water exiting that exclosure?

A. I do not.

Q. In any of these photos that we have flipped through, did you see water exiting the exclosure? Feel free to flip through if you'd like.

A. I do not.

Q. Then if we go to what you have up here, which I'll mark as 6d. What is this?

A. It's a stock trough.

Q. Is there a pipe dripping water into it?

A. Yes.

Q. And in the background do you see the vegetation?

A. I do.

Q. Do you see the fence?

A. Yes, I do.

Q. Any water exiting that fence?

A. No.

Q. Fair to say this is where the livestock are currently drinking?

A. Yeah. Fair.

Q. And you would not be able to recommend this trough as an in-stream use; is that right?

A. That is correct.

Q. Fair to say that this trough that you're

Q. So you still had a claim to a diverted use of water on this amended claim.

A. Yes.

Q. This is not a claim to in-stream water.

A. This claim was prepared after speaking -- I think it's documented there in a memo. They are speaking with Mrs. Gallant who had received the amended claims with the 1980 priority date, did not want to pursue those, and so we needed -- but the claims were still incomplete.

So these claims were completed with the evidence that we had that kept as much as we could to match the original claims filed, like back to the original priority date. We added in the description of "spring box and pipeline to trough," and we would put it in a different spot.

So the purpose of this mostly was to get a completed claim so we could move forward with the recommendation.

Q. Was this the operative claim that you reviewed in the director's report?

A. Yes.

Q. So really all I'm asking here is: The claim you reviewed for the director's report was a claim to a diverted use of water not an in-stream use of water.

A. Yes.

Q. What is the Department's authority to change a claim in a director's report?

A. We can recommend something differently than was claimed, as long as it isn't an enlargement of the use.

Q. So would it to be fair to say the claim is like the cap, and then you can recommend something up to the claim?

A. I think that's fair, yeah.

Q. You describe a diversion as an enlargement of an in-stream use or vice versa?

MS. RAMMELL-O'BRIEN: Can we break that into two questions?

MR. WIDERSCHEIN: Yeah. Let me think about a better way to phrase this.

Q. (BY MR. WIDERSCHEIN) So you are talking about enlargements.

A. Um-hmm.

Q. And I think it's easy to see how that could apply to an earlier priority date, a larger amount of water, more acres, whatever.

A. Right.

Q. It's difficult for me to understand how that maps onto something like the change from in-stream to

diverted or vice versa.

A. Yeah.

Q. So I guess what I'm asking is: What is your authority to change fundamental elements of the claim where it's not necessarily an enlargement or a reduction, it's just essentially a different claim?

A. Well, I think that's a good question. Because the elements of the claim, as far as what's on the face of the claim and the water right, don't change. Stockwater use, it's the same source, same diversion rate.

So whether changing it from an in-stream use or a diverted use, I don't know if I have an answer, or I don't know if I know the answer to that.

We felt that we could make that change in our recommendation. That's what we did.

Q. But you can't point to a specific source or authority for making that change?

A. I cannot.

Q. Now, under Idaho law, diverted use and an in-stream use, they're different. Is that fair?

A. Yes.

Q. So what you recommended is legally a different water right than what was claimed. Is that fair?

A. Yeah, I think that's fair.

Okay. This is wishy-washy. But I don't -- they claimed a 1915 priority date, and they claimed a water right that was clearly established before that spring box and pipeline went in.

So when the spring box and pipeline came into play, is that 1915 water right changing? I guess I don't -- we changed -- we did recommend something differently than what was described as part of the -- as the diversion works.

Q. What would you make of a claim where the claim source no longer exists?

A. Well, if there's no source, there's no beneficial use. So I think we would have to recommend that there is no water right.

Q. What about where the entire flow has been captured and moved somewhere else?

A. That is a problem. If there's no flow and if you're not diverting the water and putting it to beneficial use, it's hard to recommend that there's -- I don't think we could recommend there's a valid water right.

Q. And that is the case here?

A. Based on what you have shown me, I don't see in-stream -- access to in-stream flows.

Q. Are you familiar with the SRBA case, the City

Q. Based on all that, would you still recommend 1951?

A. Based on what I've seen of the spring and the access, no, I don't think I would recommend 1951.

Q. What would you recommend?

A. I think at this point I would have to recommend that there's -- the in-stream stock use that might have been developed doesn't exist anymore. So we'd recommend that as disallowed. We could not recommend a diverted stockwater use because the development is after the mandatory permit statute.

Q. Okay. So if we go back to the director's report. This is something we have hit on a little bit. So on page 4 of the director's report.

A. All right. Page 4.

Q. Top of the page, second paragraph: Effective July 1, 2021, the Idaho Legislature passed House Bill 186 which modified 42-1411, to instruct the director to accept the date of the first grazing permit issued on the federal grazing allotment; is that correct?

A. Yep.

Q. That's your understanding of what that law does?

A. Yes.

Q. So based off your initial claim package, I

Exhibit 12

Adam R.F. Gustafson
Principal Deputy Assistant Attorney General

Mark Widerschein
Michelle Nkeng
Katharine Laubach
Natural Resources Section
Environment and Natural Resources Division
U.S. Department of Justice
150 M St. NE
Washington, D.C. 20002
Phone: (202) 532-5803 (Widerschein)
Counsel for the United States of America

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 No. 67-15208 (Gallant)))))

I, Mark Widerschein, declare as follows:

1. I am one of the attorneys who represents the United States of America, Department of the Interior, Bureau of Land Management ("United States"), in the above-captioned matter.
2. I give and make this declaration based upon my own personal knowledge and can testify to the truth of the statements contained herein.
3. Attached hereto as Exhibit 2 is a true and correct copy of the March 5, 2018 Notice of Claim filed by Claimant Gary Gallant. I accessed this document from the Court's IWATRS system.
4. Attached hereto as Exhibit 3 is a true and correct copy of the November 23, 2020 correspondence from the Idaho Department of Water Resources ("IDWR") to Claimant Gary Gallant. I accessed this document from IDWR's water right search database.
5. Attached hereto as Exhibit 4 is a true and correct copy of the April 5, 2021 Notice of Claim filed by Claimant Gary Gallant with IDWR. I accessed this document from IDWR's water right search database.
6. Attached hereto as Exhibit 5 is a true and correct copy of the August 8, 2022 Objection to IDWR's Director's Report filed by the United States. I accessed this document from the Court's IWATRS system.
7. Attached hereto as Exhibit 10 is a true and correct copy of the April 23, 2026 discovery requests served on Mr. Gallant. I accessed this document from Department of Justice records.

8. Attached hereto as Exhibit 11 are transcript excerpts from the July 9, 2026 deposition of the Idaho Department of Water Resources. I accessed this document from the database provided by court reporting service DepoIdaho.

I declare under penalty of perjury, pursuant to the laws of the State of Idaho, that the foregoing is true and correct.

Dated this 11th day of August, 2026, at Washington, District of Columbia.

Mark J. Widerschein

Mark J. Widerschein