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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

UNITED STATES OF AMERICA,)	
)	Case No. 1:22-cv-00236-DCN
Plaintiff,)	
)	UNITED STATES OF AMERICA’S
v.)	RESPONSE TO STATE DEFENDANTS’
)	STATEMENT OF UNDISPUTED FACTS
STATE OF IDAHO; IDAHO)	(ECF NO. 44)
DEPARTMENT OF WATER RESOURCES,)	
an agency of the State of Idaho; and GARY)	
SPACKMAN, in his official capacity as)	
Director of the Idaho Department of Water)	
Resources,)	
)	
)	
Defendants,)	

v.)
)
 IDAHO HOUSE OF)
 REPRESENTATIVES; MEGAN)
 BLANKSMA, in her official capacity as)
 Majority Leader of the House; IDAHO)
 SENATE; and CHUCK WINDER, in his)
 official capacity as President Pro Tempore)
 of the Senate,)
)
 and)
)
 JOYCE LIVESTOCK CO.; LU RANCHING)
 CO.; PICKETT RANCH & SHEEP CO.;)
 IDAHO FARM BUREAU FEDERATION,)
 INC.,)
)
 Intervenor Defendants.)
)

The United States of America provides the following response to *State Defendants’ Statement of Undisputed Facts and Statement of Disputed Facts in Response to United States’ Statement of Undisputed Facts*, ECF No. 44 (“State Defendants’ Statement of Undisputed Facts”). The United States denies any and all allegations, whether express or implied, that are not otherwise specifically admitted, qualified, or denied by this Response. Further, the United States does not respond specifically to the declarations cited in State Defendants’ Statement of Undisputed Facts. The allegations within the declarations are not a part of State Defendants’ Statement of Undisputed Facts. All numbered paragraphs correspond to the numbered paragraphs in State Defendants’ Statement of Undisputed Facts.

1. The United States admits the allegations in the first four sentences of Paragraph 1. Regarding the fifth sentence of Paragraph 1, the United States admits that the Snake River Basin Adjudication (“SRBA”) is the oldest of the listed adjudications “currently underway in Idaho.”

The United States denies that the SRBA is the oldest water adjudication in Idaho. The United States also admits that the SRBA is the largest adjudication in the State of Idaho.

2. The United States admits the allegations in the first and second sentences of Paragraph 2. The United States lacks knowledge or information sufficient to form a belief as to the truthfulness of the specific allegation in the third sentence regarding “[a]pproximately 160,000 water rights” being decreed through the SRBA and denies it on that basis. The United States admits that the SRBA resulted in the decree of tens of thousands of water rights. The United States lacks knowledge or information sufficient to form a belief as to the truthfulness of the allegations in the fourth sentence and denies them on that basis. The fourth sentence also seeks to characterize the contents of a cited law review article, Ann. Y. Vonde, et al., *Understanding the Snake River Basin Adjudication*, 52 IDAHO L. REV. 53, 55-56 (2016), which speaks for itself and provides the best evidence of its contents. The United States denies any allegations contrary to the plain meaning, language, and context of that article. The United States admits the allegations in the fifth sentence.

3. The allegations in the main text of Paragraph 3 purport to characterize various court procedures based on statutes, regulations, and declarations, which speak for themselves and provide the best evidence of their contents. Any allegations contrary to their plain meaning, language, and context are denied. As to the allegations in footnote 3, the United States admits that the State of Idaho and its agencies may appear as parties in the SRBA and other adjudications under Idaho Code § 42-1401C if they are a claimant, objector, or respondent. The United States lacks knowledge or information sufficient to form a belief as to the truth of the allegations in footnote 4 regarding what claims the Idaho Department of Water Resources (“IDWR”) investigates and denies them on that basis.

4. The allegations in Paragraph 4 purport to characterize various statutes and declarations, which speak for themselves and provide the best evidence of their contents. Any allegations contrary to their plain meaning, language, and context are denied.

5. The allegations in Paragraph 5 constitute legal conclusions, to which no response is required. The United States admits it is bound by the Final Unified Decree as to matters within its scope.

6. The United States admits the allegations in the first sentence of Paragraph 6. The allegations in the second sentence of Paragraph 6 constitute legal conclusions, to which no response is required, and are based upon the cited dissent of Justice Stevens. Any allegation contrary to the plain meaning, language, and context of the cited Supreme Court opinion are denied. The United States admits that federal reserved water rights are not subject to forfeiture under state law. The United States admits the allegations in the third sentence of Paragraph 6.

7. The United States admits the allegations in the first sentence of Paragraph 7. The allegations in the second sentence of Paragraph 7 constitute legal conclusions, to which no response is required. To the extent a response is required, the United States denies the allegations as incomplete, and further denies the allegations to extent they are intended to incorporate the statutes at issue in this litigation. The remaining allegations in the third sentence of Paragraph 7 purport to characterize various statutes, which speak for themselves and provide the best evidence of their contents. Any allegations contrary to their plain meaning, language, and context are denied.

8. The United States admits the allegations in the first sentence of Paragraph 8. The allegations in the second sentence of Paragraph 8 and its footnote constitute legal conclusions, to which no response is required. The allegations in the third sentence purport to characterize the

claims made by the United States in the SRBA and those claims speak for themselves and are the best evidence of their content. Any allegations contrary to their plain meaning, language, and context are denied. The United States nonetheless admits that it directly owns few livestock relative to its SRBA claims. The United States admits the allegations in the fourth sentence. The United States lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the fifth sentence of Paragraph 8 regarding the reasons for the IDWR recommending that water rights be decreed in the name of the United States and denies them on that basis.

9. The United States admits the allegations in Paragraph 9. However, the United States avers that the allegations in Paragraph 9 that pertain to priority dates based on the date of the Taylor Grazing Act apply only to BLM claims.

10. The allegations in Paragraph 10 purport to characterize court filings by the United States, which speak for themselves and provide the best evidence of their contents. Any allegations contrary to their plain meaning, language, and context are denied.

11. The allegations in the first two sentences of Paragraph 11 purport to characterize a Snake River Basin Adjudication order, which speaks for itself and provides the best evidence of its contents. Any allegations contrary to the plain meaning, language, and context of the cited order are denied. The United States admits the allegations in the third and fourth sentences. The fifth sentence is a legal conclusion to which no response is required. Additionally, the fifth sentence of Paragraph 11 purports to characterize an uncited policy of IDWR and that document, if it exists, speaks for itself and provides the best evidence of its contents. To the extent a further response is required, the United States denies the allegations. Additionally, the United States denies that it was decreed thousands of beneficial use-based stockwater rights “based solely on

IDWR's then-longstanding policy of recommending that water rights be decreed in the name of the title holder of the land where the water is used.”

12. The allegations in Paragraph 12 are legal conclusions, to which no response is required, and purport to characterize Snake River Basin Adjudication decisions and an Idaho Supreme court opinion, which speak for themselves and provide the best evidence of their contents. Any allegations contrary to their plain meaning, language, and context are denied.

13. The allegations in Paragraph 13 constitute legal conclusions, to which no response is required, and are based upon an IDWR Chief's characterization of unspecified Idaho law and federal grazing programs. The United States admits that it administers the federal grazing program through its federal land management agencies, but that IDWR, through its administration of state water rights, can affect the grazing program.

14. The allegations in Paragraph 14 quotes an excerpt of the Taylor Grazing Act of 1934, which speaks for itself and provides the best evidence of its contents. Any allegations contrary to its plain meaning, language, and context are denied.

15. The allegations in Paragraph 15 quote an excerpt of the Code of Federal Regulations, which speaks for itself and provides the best evidence of its contents. Any allegations contrary to its plain meaning, language, and context are denied.

16. The allegations in Paragraph 16 quotes an excerpt of the Federal Land Policy and Management Act of 1976, which speaks for itself and provides the best evidence of its contents. Any allegations contrary to the plain meaning, language, and context are denied.

17. The allegations in the first sentence of Paragraph 17 purport to characterize Idaho statutes, which speak for themselves and constitute the best evidence of their contents. Any allegations contrary to their plain meaning, language, and context are denied. The United States

admits that the statutes comprising Chapter 5 remained substantially unchanged until 2017. The remaining allegations in the second sentence of Paragraph 17 purport to characterize Idaho's intent and understanding in enacting the legislation, and the United States lacks knowledge or information sufficient to form a belief as to the truth of these remaining allegations and denies them on that basis. The United States also denies that the *Joyce* decision required the referenced legislation, as alleged in the second sentence. The allegations in the remaining sentences in Paragraph 17 purport to characterize Idaho statutes, which speak for themselves and constitute the best evidence of their contents. Any allegations contrary to their plain meaning, language, and context are denied.

18. The allegations of Paragraph 18 purport to characterize Idaho statutes, which speak for themselves and constitute the best evidence of their contents. Any allegations contrary to their plain meaning, language, and context are denied.

19. The allegations in Paragraph 19 are legal conclusions, to which no response is required, and are based upon the cited Idaho statutes, which speak for themselves and constitute the best evidence of their contents. Any allegations contrary to their plain meaning, language, and context are denied.

20. The United States denies the allegations of the first sentence. The United States lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the second or third sentences of Paragraph 20 regarding the IDWR's investigations and denies them on that basis. The allegations in the fourth and fifth sentences of Paragraph 20 are legal conclusions, to which no response is required, and are based upon State Defendant's characterization of Idaho statutes. The cited Idaho statutes speak for themselves and constitute

the best evidence of their contents. Any allegations contrary to their plain meaning, language, and context are denied.

21. The United States admits the allegations in the first sentence of Paragraph 21. The remaining allegations in Paragraph 21 purport to characterize petitions. The petitions speak for themselves and constitute the best evidence of their contents. Any allegations contrary to their plain meaning, language, and context are denied.

22. The United States lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 22 and denies them on that basis. The remaining allegations in Paragraph 22 purport to characterize orders issued by the IDWR Director, which speak for themselves and constitute the best evidence of their contents. Any allegations contrary to their plain meaning, language, and context are denied. The United States admits the allegations contained in footnote 11.

23. The allegations in Paragraph 23 purport to characterize orders issued by the IDWR Director, which speak for themselves and constitute the best evidence of their contents. Any allegations contrary to their plain meaning, language, and context are denied.

24. The allegations in Paragraph 24¹ (identified as “25” by the State Defendants) purport to characterize the United States of America’s Complaint, ECF No. 1, special appearances filed with the IDWR Director, and the related orders, which speak for themselves and constitute the best evidence of their contents. Any allegations contrary to their plain meaning, language, and context are denied.

25. The allegations in Paragraph 25 (identified as “24” by the State Defendants following a paragraph styled “25”) purport to characterize the exhibits included with

¹ State Defendants appear to have inadvertently transposed Paragraphs 24 and 25.

declarations. The declarations and the associated attachments speak for themselves and are the best evidence of their content. Any allegations contrary to their plain meaning, language, and context are denied.

Respectively submitted this 21st day of June, 2023.

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