

**DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls-State of Idaho**

SEP 1 2026

ADAM R.F. GUSTAFSON

Principal Deputy Assistant Attorney General
Environment and Natural Resources Division

MARK WIDERSCHIEIN

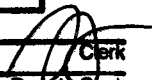
KATHARINE LAUBACH

MICHELLE NKENG

U.S. Department of Justice
Environment and Natural Resources Division
Natural Resources Section
150 M. St. NE
Washington D.C. 2002
michelle.nkeng@usdoj.gov

Counsel for the United States of America

By _____


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

) Subcase No: 37-23474
)
) UNITED STATES' MOTION TO FILE LATE
) OBJECTIONS
)
)
)
)
)

Pursuant to Administrative Order 1 § 10(j), the United States respectfully moves to file a late objection to the Director's Report for Claim No. 37-23474. *See* Ex. 1 (proposed objection). The United States' motion is supported by the Declaration of Fredric W. Price, Water Rights Specialist in the Bureau of Land Management Idaho State Office. *See* Ex. 2 ("Price Decl.").

Background

1. The Idaho Department of Water Resources ("IDWR") filed a Director's Report for Claim No. 37-23474 on March 6, 2026. The Director's Report also reviewed Claim Nos. 61-12361, 61-12362, 61-12363, and 61-12440.
2. The deadline to file an objection to IDWR's recommendations was May 4, 2026.
3. The United States timely filed objections in the Basin 61 subcases but did not object to the Basin 37 subcase.
4. On July 13, 2026, the Court scheduled a status conference regarding the five cases described above in Paragraph 1, which was held on August 4, 2026. A follow-up status conference is set for September 8, 2026. No case-related deadlines have been set and an initial hearing has not been held.

Legal Standards

5. "In subcases for which partial decrees have not been entered, the legal standard for filing a late objection to a water right claim in the SRBA has been historically determined pursuant to the standard set forth in AO1 for filing late claims since AO1 does not expressly provide a standard for reviewing late objections." Ord. on Mot. to Set Aside Partial Decrees and File Late Objections, Subcases 65-07267, *et al.*, at 6 (Jan. 31, 2001). This is the I.R.C.P. 55(c) "good cause" standard for setting a default judgment. *Id.* at 6–7. The standard considers whether the default was willful, whether it would prejudice the

opponent, and whether a meritorious position has been presented. *Id.*

Argument

6. Good cause exists to allow the United States to file a late objection to Claim No. 37-23474. The default was not willful, as the United States only identified the basis for objection upon reviewing the claim during preparation for the August status conference. The late objection will not prejudice the claimant, as no deadlines have been set, an initial hearing has not been held, and counsel for the claimant has not entered an appearance. Finally, a meritorious position is presented, as the United States has identified open legal questions regarding the claim's validity.
7. While there are other issues with the claims, the United States' objections in the Basin 61 subcases primarily raised the issue of improper stacking of claims into non-*de minimis* uses. *See, e.g.,* United States SF1 Objection, Subcase No. 61-12361 (May 4, 2026). During BLM's initial review, Claim No. 37-23474 did not seem to present the same issues, as it is a single claim on a private land parcel, located some distance away from the Basin 61 claims. Price Decl. ¶ 5. After the Court set the August status conference, BLM conducted further research into Claim No. 37-23474 to identify whether it was related in some way to the Basin 61 claims. *Id.* Claim No. 37-23474 seemingly is not related to the Basin 61 claims, beyond that they are claimed by the same claimant. *Id.* However, in reviewing property and business records, BLM identified that the claimant, Casa Del Norte, LP, is not the landowner of the private parcel related to Claim No. 37-23474. *Id.* Nor is it a grazing permittee on the BLM grazing allotment which surrounds the private parcel. *Id.* This raised concerns for BLM, as the claim asserts use by 3242 cattle on a single source in a *de minimis* claim. *Id.* A review of aerial imagery

showed no evidence of a grazing operation on the private parcel. *Id.* Accordingly, the claim appears to be for a non-*de minimis* use in the *de minimis* phase of the adjudication, on a parcel not owned by the claimant, without any evidence of livestock use. The United States seeks to object on that basis.

8. Allowing a late objection would not prejudice Casa Del Norte. This case is in its earliest stages. An initial hearing has not taken place, only an initial status conference at which Casa Del Norte indicated potentially as many as 250 more claims may be forthcoming. The parties initially discussed either a stay to accommodate IDWR's review, or initially resolving certain legal issues in a subset of cases. Another status conference is set for September 2026 to further discuss those initial case logistics. Accordingly, allowing the late objection will not delay the resolution of any issues.

9. For good cause shown, the Court should grant the Motion.

DATED this 31st day of August, 2026.

Respectfully submitted,

Adam R.F. Gustafson
Principal Deputy Assistant Attorney General

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

Attorneys for the United States of America

CERTIFICATE OF SERVICE

I certify that on this 31st day of August, 2026, I served a true and correct copy of the foregoing **UNITED STATES' MOTION TO FILE LATE OBJECTIONS** as indicated below:

VIA FEDEX

Clerk of the Court
Snake River Basin Adjudication
253 Third Avenue North
Twin Falls, ID 83303-2707

VIA U.S. MAIL:

Director of IDWR
PO Box 83720
Boise, ID 83720-0098

CASA DEL NORTE, LP
11204 N BAR 21 DR
GLENN'S FERRY, ID 83623



Matthew J. Lamb

Exhibit 1

**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 37-23474
(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:

Mark Widerschein, Michelle Nkeng, Katharine Laubach
(202) 532-5803, (202) 514-2598, (202) 305-8568
United States Department of Justice
Environment and Natural Resource Division
Natural Resources Section
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044-7611

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

Name: Casa del Norte LP
Address: 11204 N Bar 21 Dr
Glenns Ferry, ID 83623-5028

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.

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//

E. REASONS SUPPORTING OBJECTION(S):

Claimant filed this claim for *de minimis* instream stockwater use on private land surrounded by the King Hill grazing allotment (#ID90413) managed by the Bureau of Land Management. According to Ellmore County property records, this parcel of private land is owned by AFC LLC rather than Claimant Casa Del Norte. The only authorized grazing permittee in this allotment is the Camas Creek Cattle Association LLC. According to BLM's records, neither AFC L.L.C. nor Casa del Norte is a member of the association.

Review of BLM records and aerial photography of this parcel reveals that there is no fencing along the property boundary between AFC LLC property and BLM allotment. Aerial photography also does not show any evidence of habitation of this private land parcel. There is no residence, barns, stable, or other structures, fences, corrals, or any evidence of any kind of improvement. It is a prohibited act to graze federal land without an authorized grazing permit and there are no fences separating private land from federal land, therefore any privately owned livestock could wander onto federal land in trespass. BLM has no record of any livestock brands grazing in this allotment other than the authorized grazing permittee. There is no evidence that the claimant has grazed this private land parcel.

Additionally, to the extent there was ever historic beneficial use, this claim was filed for *de minimis* use. However, the Notice of Claim indicates 3,432 cattle, which would require more water than the *de minimis* maximum under state law. The Director's Report recommends a priority date of April 4, 1917. The Director's Report contains no analysis, and no records were submitted with the Notice of Claim to substantiate the date.

F.

VERIFICATION (Must be Completed)

State of Idaho

)

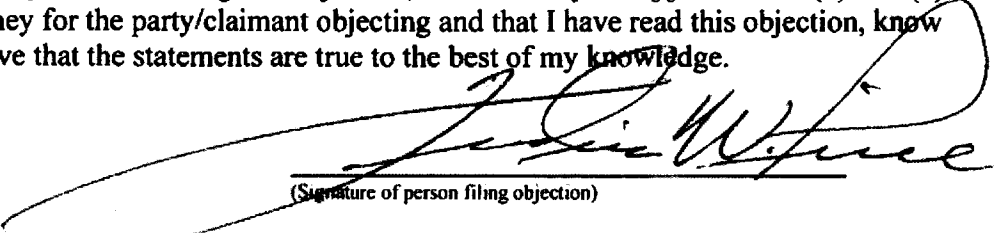
) ss.

County of Ada

)

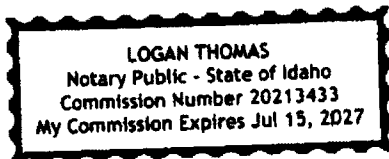
Fredric W. Price, Water Rights Specialist, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

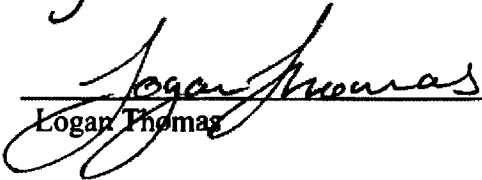
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.


(Signature of person filing objection)

Subscribed and sworn to before me on:

August 26th 2026




Logan Thomas

Notary Public for State of Idaho
Residing at: Boise, ID
My Commission Expires: 07/15/2027

(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 31, 2026, 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: Casa del Norte LP
Address: 11204 N Bar 21 Dr
Glenns Ferry, ID 83623-5028

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
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044-7611



Matthew J. Lamb

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

01/02/2026

RIGHT NUMBER: 17-23474
NAME AND ADDRESS: CASA DEL NORTE LP
11204 N BAR 21 DR
GLENN'S FERRY ID 83623-5028
SOURCE: EAST FORK HELL MARE CREEK TRIBUTARY: HELL MARE CREEK
QUANTITY: 0.020 CFS
The quantity of water under this right shall not exceed 13,000 gallons per day.
PRIORITY DATE: 04/04/1917

POINT OF DIVERSION: T04S R11E S22 N6SW Begin of Stream Flow Within ELMORE County
T04S R11E S22 N6SW Begin of Stream Flow Within ELMORE County
T04S R11E S28 SESE End of Stream Flow Within ELMORE County

PURPOSE AND PERIOD OF USE:

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

Stockwater use is for the instream watering of livestock.

PLACE OF USE:

STOCKWATER in ELMORE County					
T04S	R11E	S22	N6SW	T04S	R11E S22 SWSW
T04S	R11E	S22	S6SW	T04S	R11E S27 NWNW
T04S	R11E	S27	SNNW	T04S	R11E S28 SRNS
T04S	R11E	S28	SESE	T04S	R11E S28 S6SE

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

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Idaho Code § 42-1412(b).

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

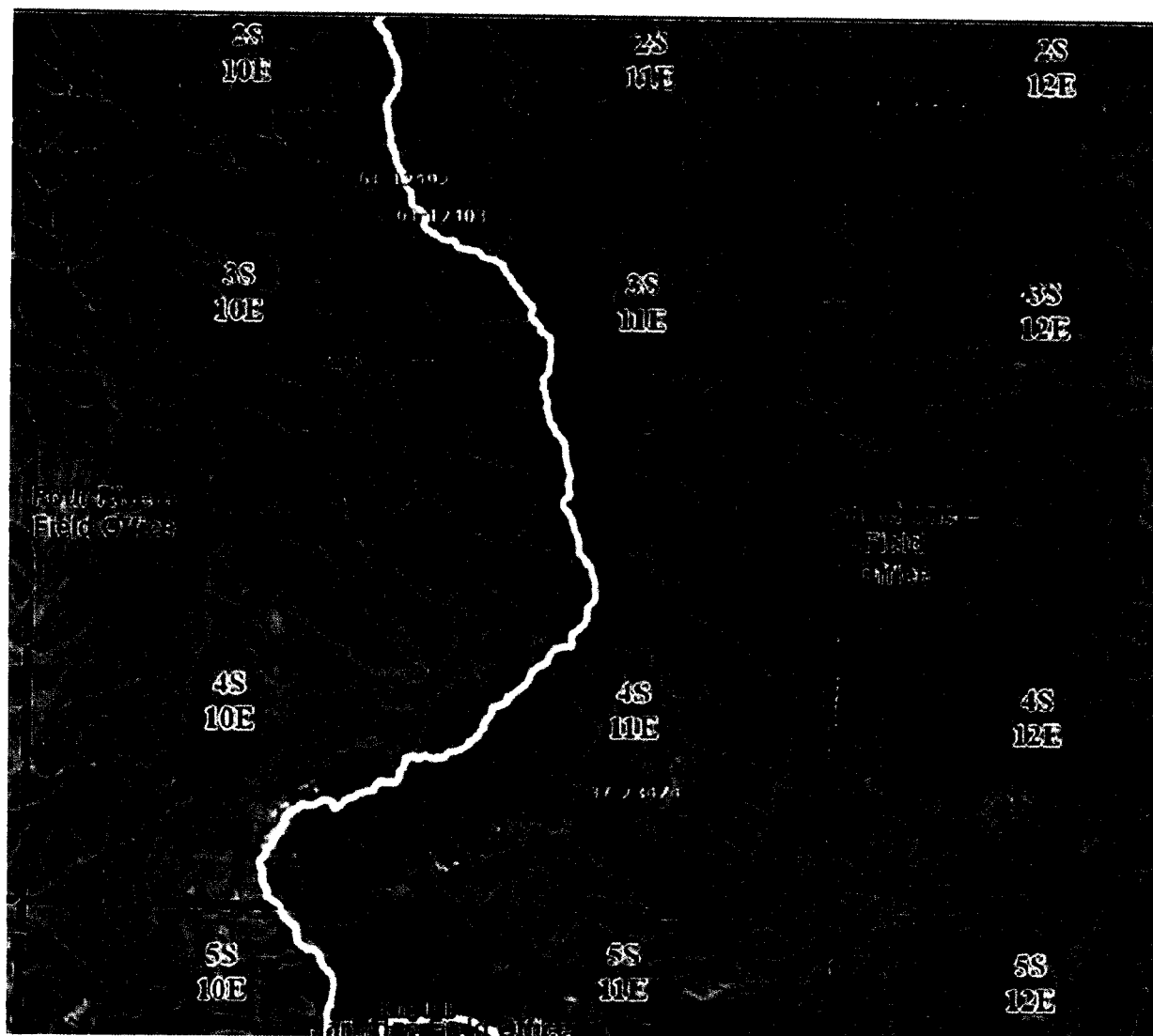


Exhibit 2

ADAM R.F. GUSTAFSON

Principal Deputy Assistant Attorney General

MARK WIDERSCHIEIN

MICHELLE NKENG

KATHARINE LAUBACH

Trial Attorneys

Natural Resources Section

Environment and Natural Resources Division

U.S. Department of Justice

P.O. Box 7611

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michelle.nkeng@usdoj.gov, (202) 514-2598

katharine.laubach@usdoj.gov, (202) 305-8568

Counsel for United States of America

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

In Re SRBA

) Subase No.: 37-23474

)

Case No. 39576

) **DECLARATION OF**
) **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 an explanation as to why BLM didn't previously identify Claim No. 37-23474 as a candidate for objection.

On my initial review, I identified that the claim described a POD & POU on privately owned land. It is geographically distinct from the Basin 61 claims in the same Director's Report, and did not appear to be a combined use with those claims. When the court set a Status Conference instead of Initial Hearings that included this uncontested recommendation, I decided to dig deeper into why it was included, so that, if asked, BLM could speak intelligently about it at the Status Conference, including whether it should be treated as an uncontested overlap. In my second review, I reviewed data from the Elmore County Assessor's Office to determine who the owner of the POUs is for 37-23474. According to Elmore County, the owner is AFC L.L.C. AFC L.L.C. is not the claimant of the water right. Any water right for stockwater use on private land should be held by whoever owns or grazes the livestock. It is not apparent that that is the case here.

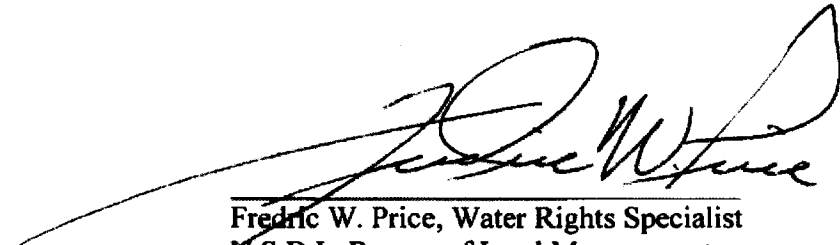
I then mapped the Director's Report recommendation against BLM grazing allotment data. This private land parcel lies in the center of the King Hill Grazing Allotment, and is fully encompassed by federal public lands. I queried BLM's Range Administration System to see who the authorized permittee was. The only permittee is the Camas Creek Grazing Association. According to the BLM Shoshone Field Office, Casa Del Norte is not a member of the Camas Creek Grazing Association. I additionally confirmed that the private land parcel is not fenced off

from the King Hill Grazing Allotment, so a grazing operation on private land would require close supervision to avoid unlawful grazing trespass on federal public lands.

Since the private land is inside the grazing allotment and there has been no grazing trespass, it does not appear that any privately owned livestock, other than Camas Creek Cattle Association, are grazing this private land parcel. Aerial imagery (GoogleEarth) shows some BLM pasture fencing within the allotment; but within the private land parcel, imagery does not show any residence, barn, stable, or corrals. There is no visual evidence of any kind of a private land livestock operation. BLM monitors and records livestock brands grazing on the allotment. The only brand recorded in recent records is the CCC brand for Camas Creek Cattle Association. Attached hereto as Exhibit 1 is a collection of maps I made from ESRI ArcPro and GoogleEarth applications to show the area around claim number 37-23474 relative to available data (i.e., PLSS and recommendation POU).

I concluded after all this supplementary review, that there is no evidence that Claimant Casa Del Norte, LP has grazed this private land parcel. Accordingly, BLM seeks to object to this claim.

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.

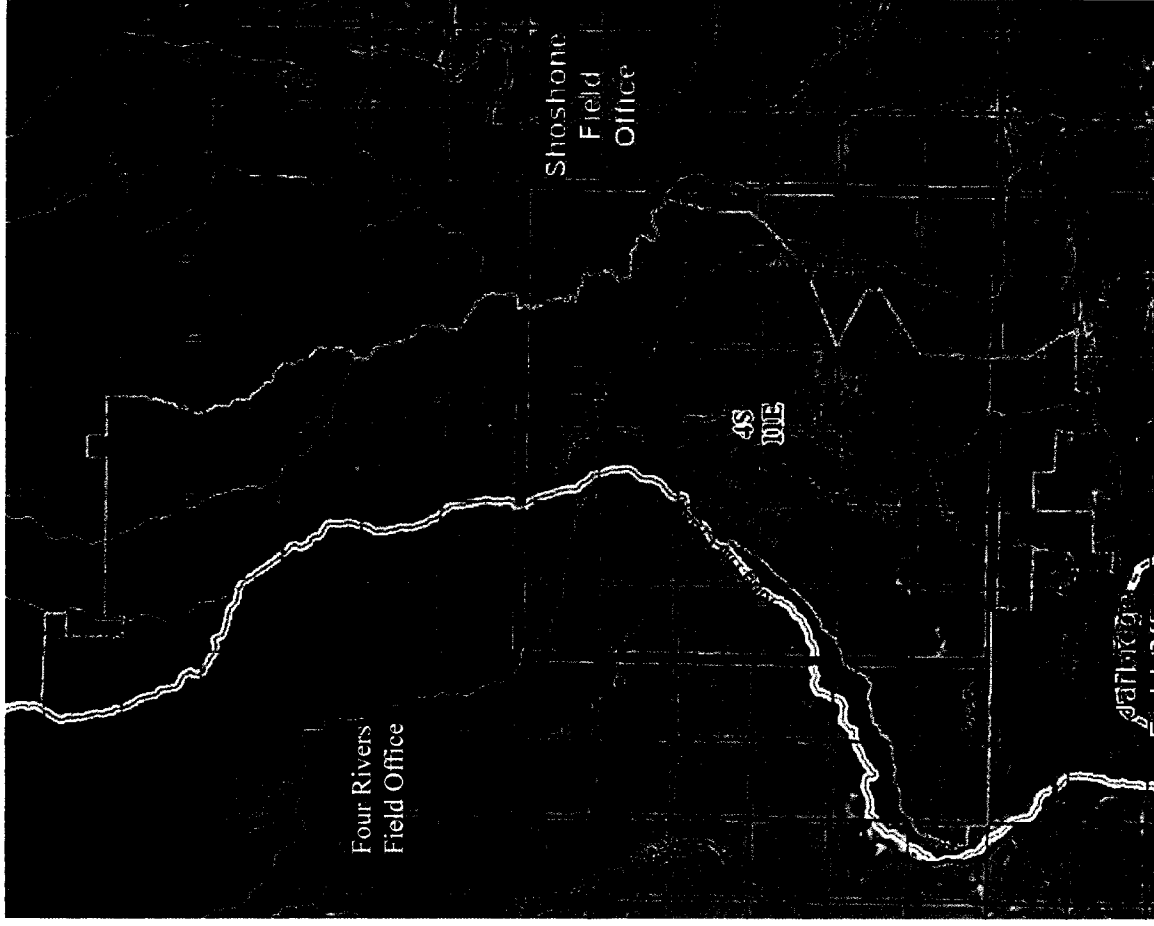


Fredric W. Price, Water Rights Specialist
U.S.D.I., Bureau of Land Management
Idaho State Office

Attachment A

EXHIBIT 1

37-23474, Casa del Norte LP: Director's Report



Declaration of Fredric W. Price

Exhibit 1

EXHIBIT 1

37-23474, Casa del Norte LP: Director's Report

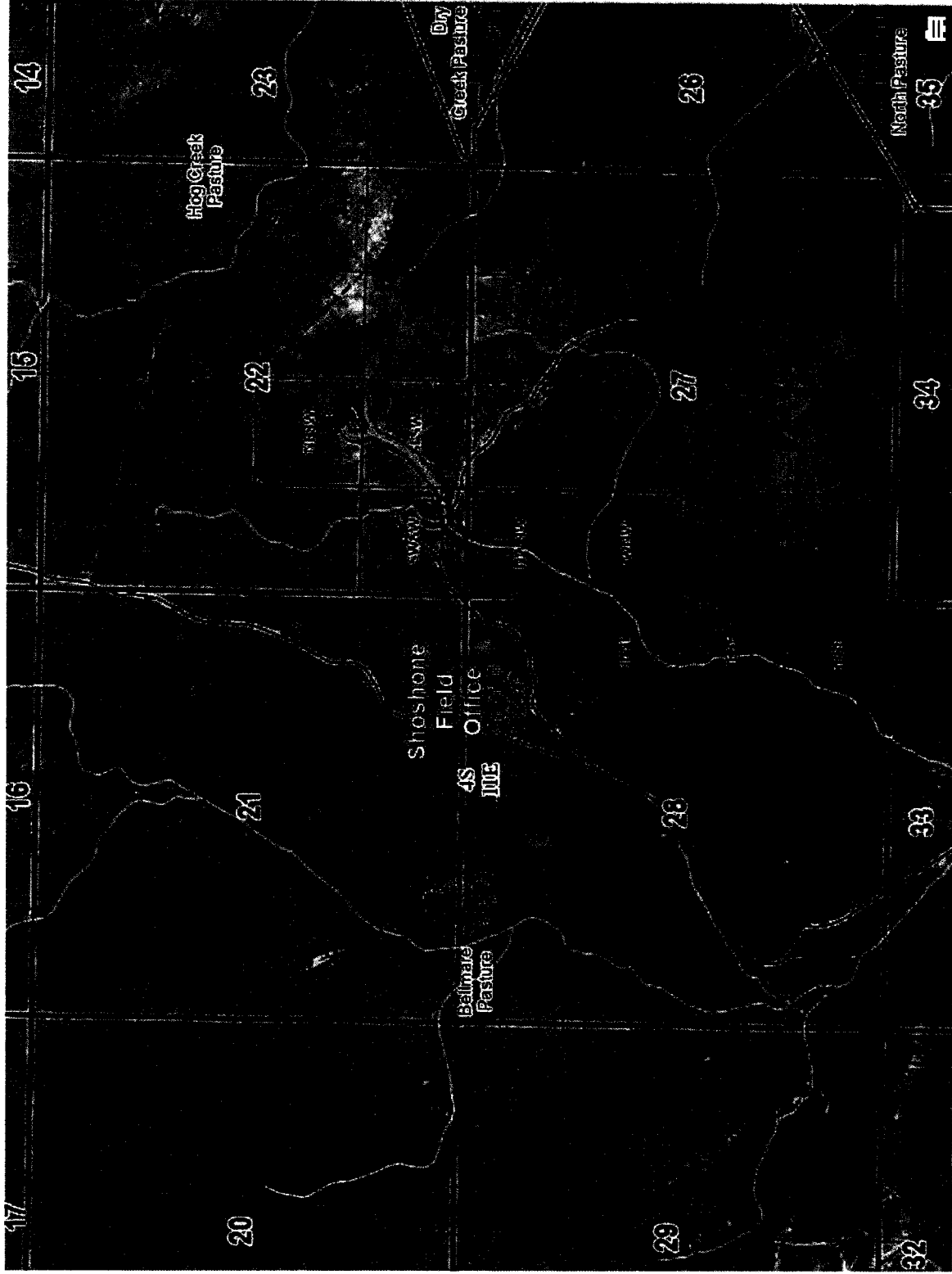
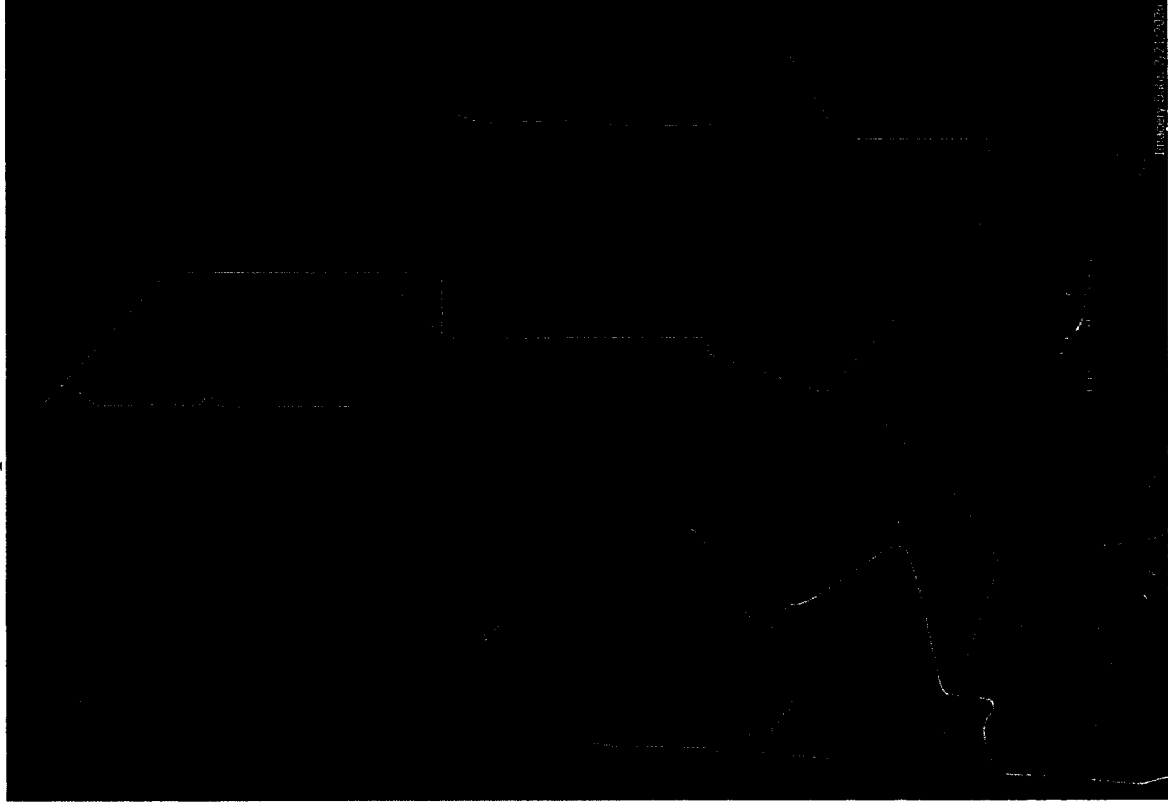


EXHIBIT 1

37-23474, Casa del Norte LP: Director's Report
GoogleEarth

Yellow = fences



Property Data: 2/21/2009

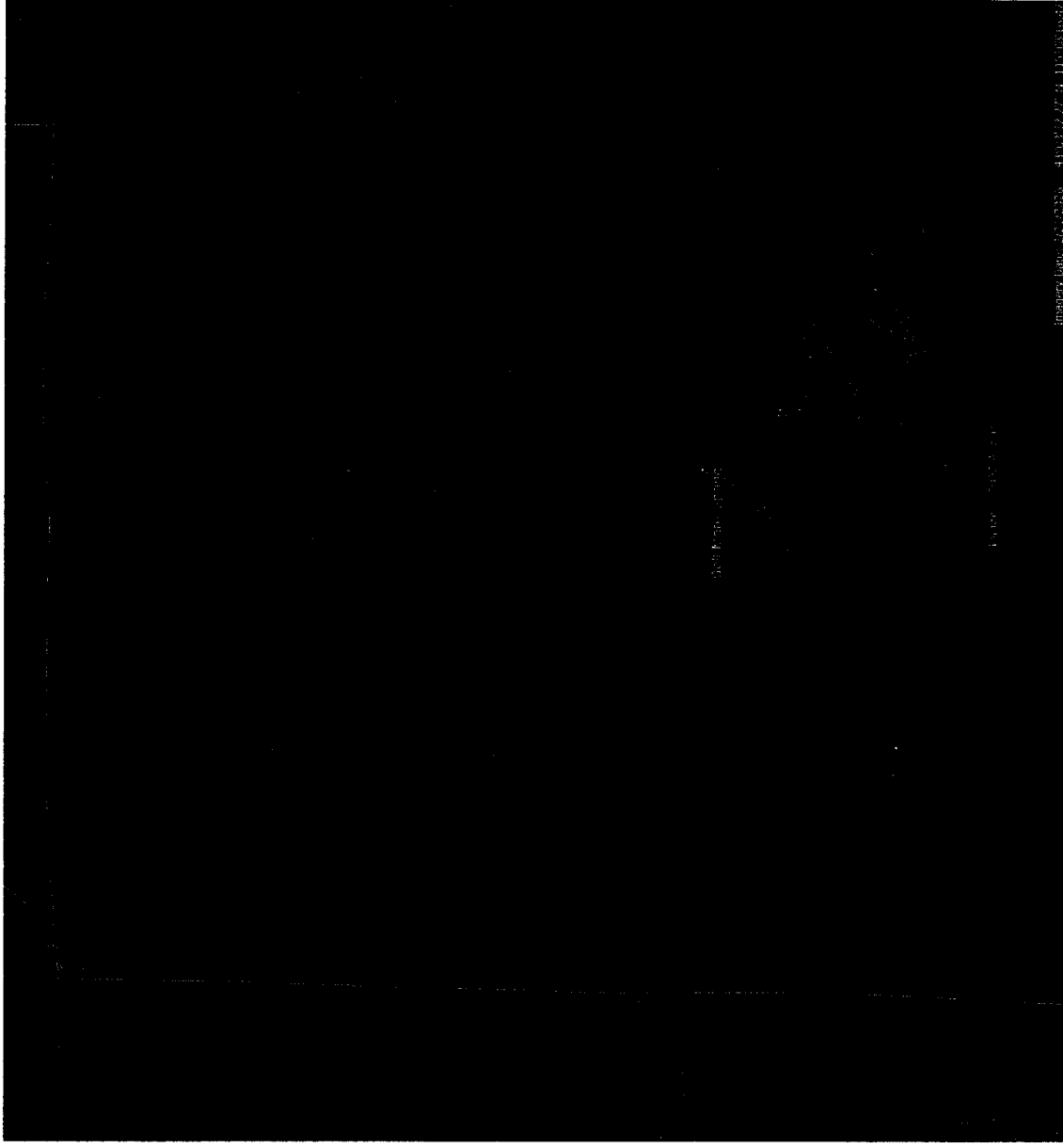
Declaration of Fredric W. Price

Exhibit 1

EXHIBIT 1

37-23474, Casa del Norte LP: Director's Report
GoogleEarth

T04S, R11E, S22



Imagery Date: 2/1/2010 4:00:27 PM 110503042

EXHIBIT 1

37-23474, Casa del Norte LP: Director's Report
GoogleEarth

T04S, R11E, S22

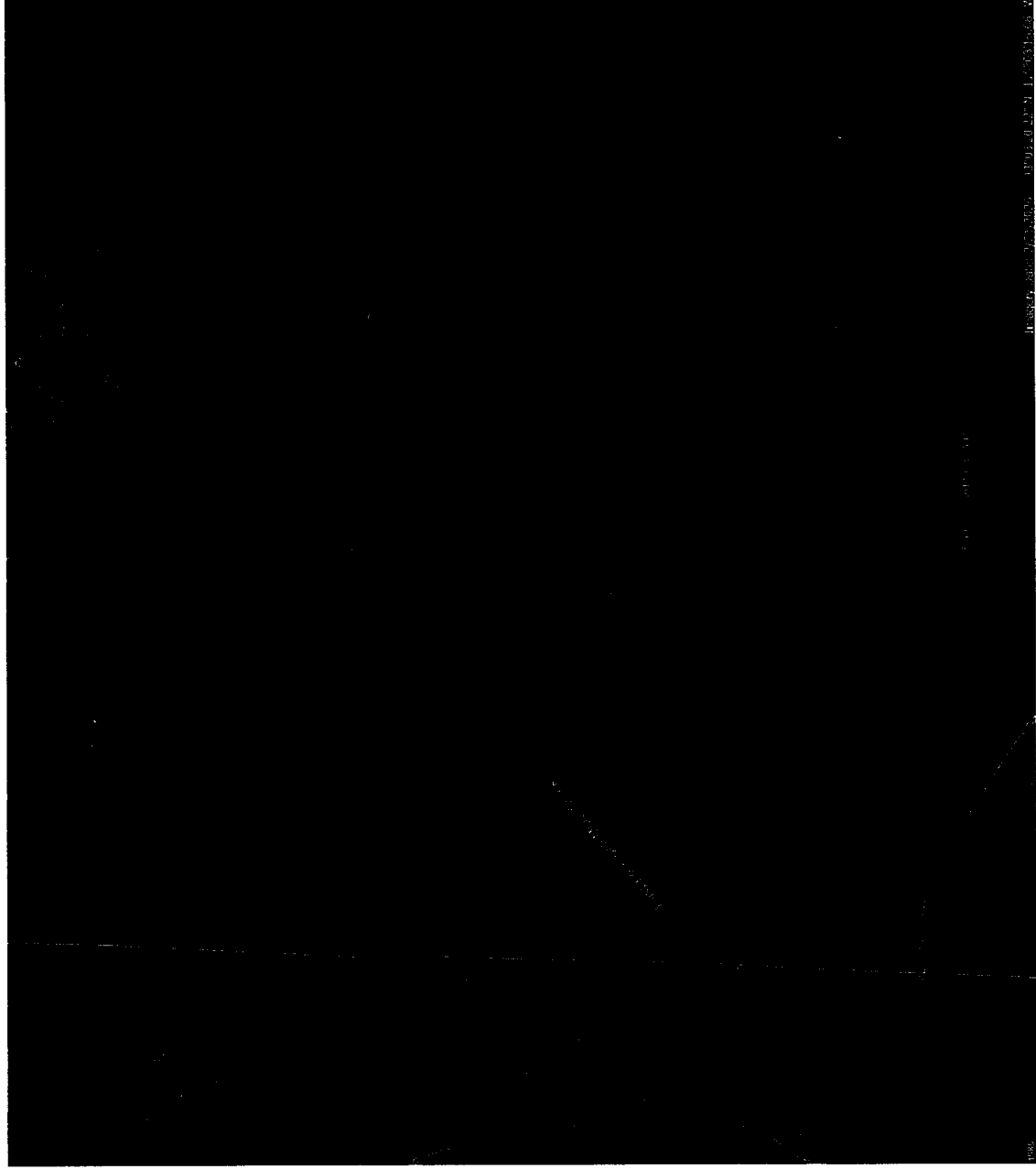


Exhibit 1

Declaration of Fredric W. Price

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EXHIBIT 1

37-23474, Casa del Norte LP: Director's Report

GoogleEarth

T04S, R11E, S22

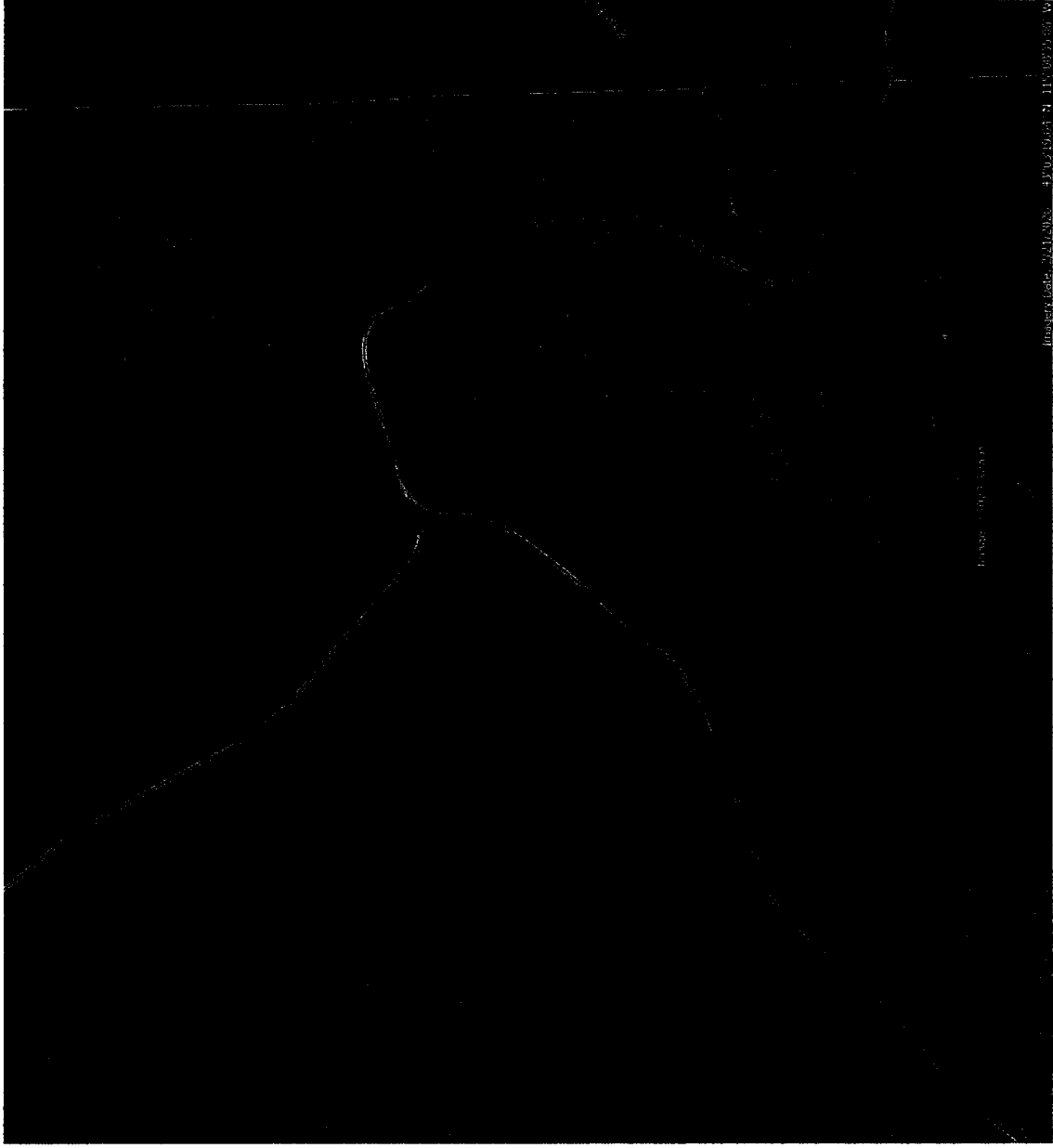


EXHIBIT 1

37-23474, Casa del Norte LP: Director's Report
GoogleEarth

T04S, R11E, S27

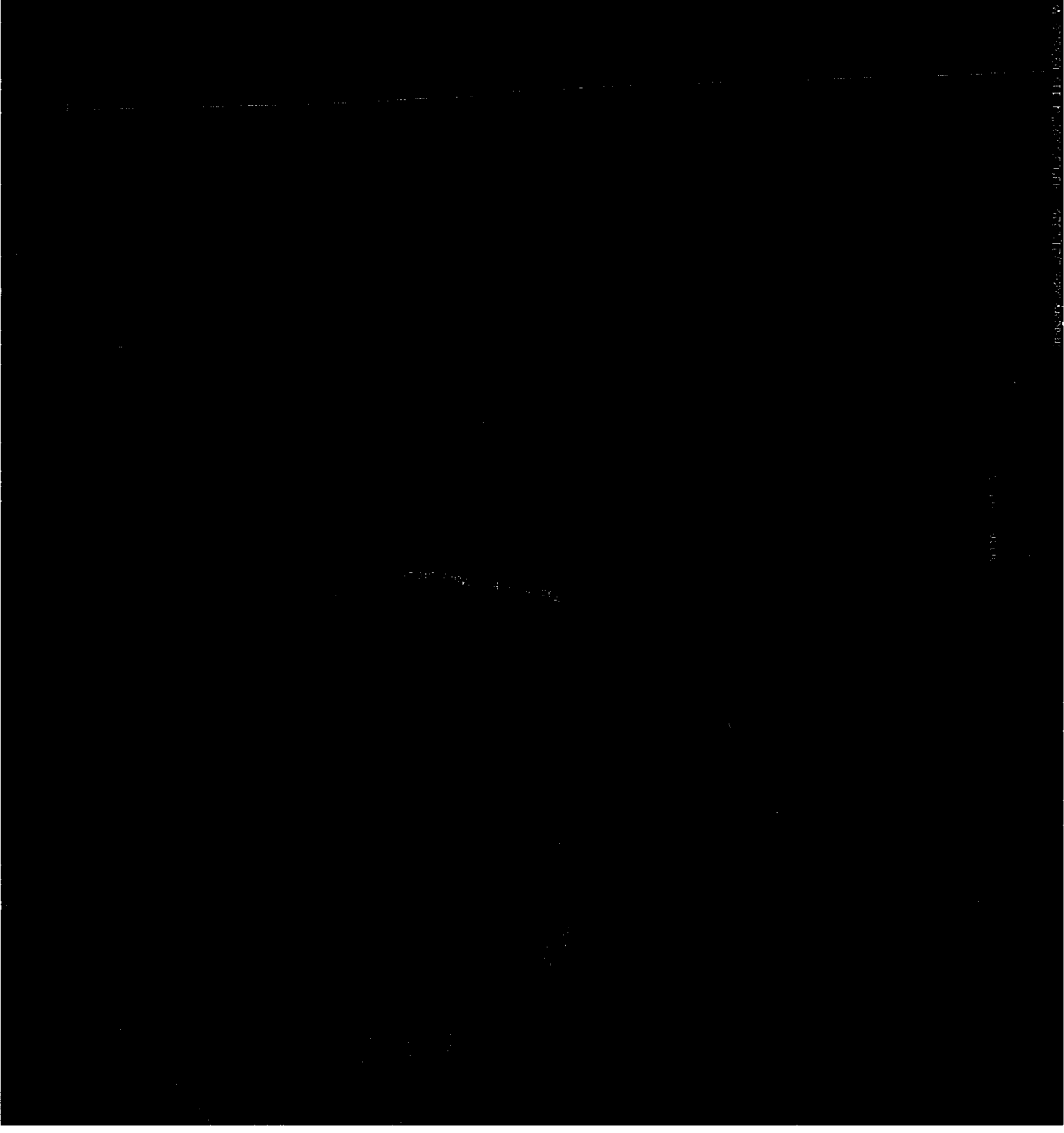


Exhibit 1

Declaration of Fredric W. Price

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EXHIBIT 1

37-23474, Casa del Norte LP: Director's Report
GoogleEarth

T04S, R11E, S27

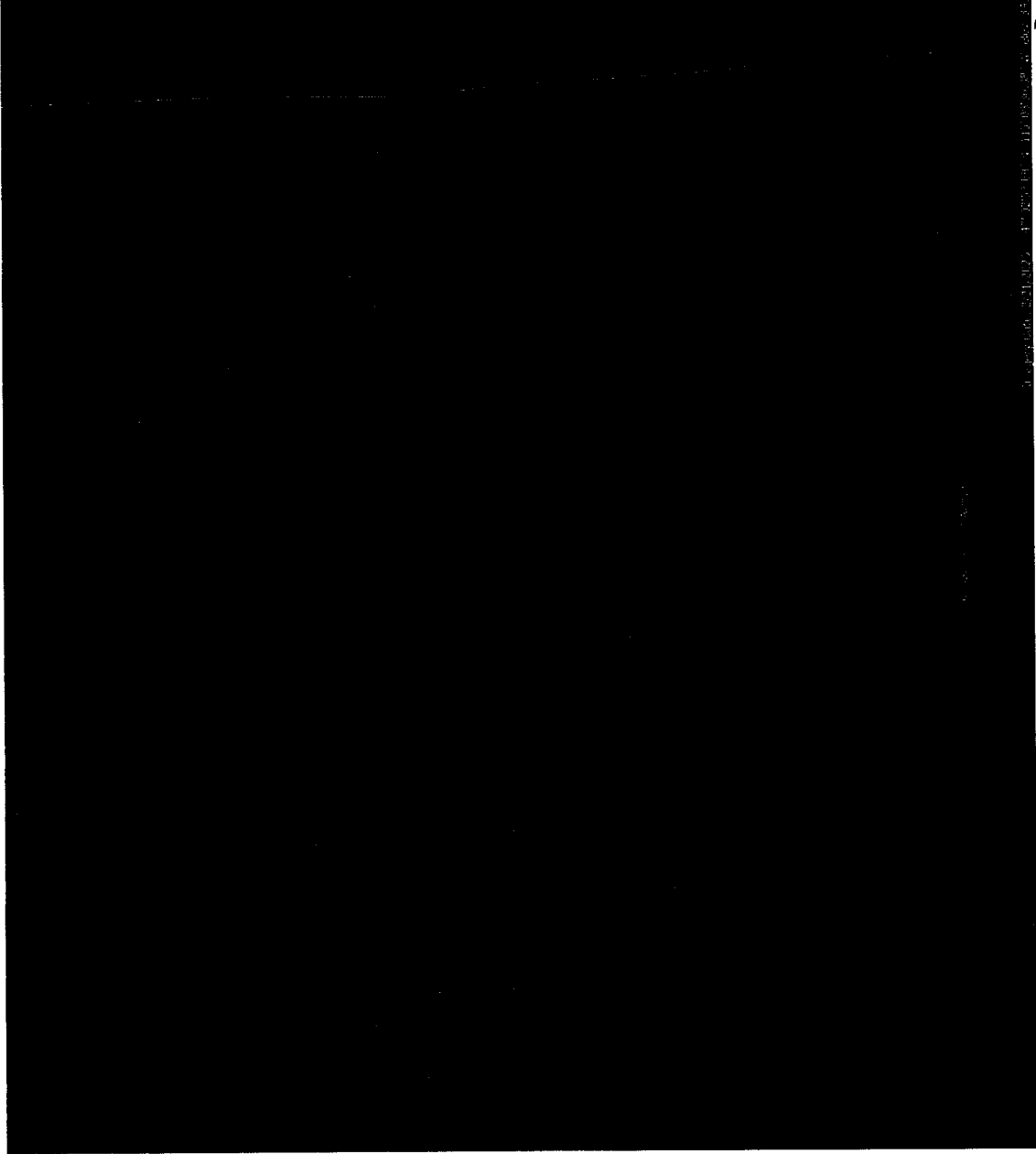


Exhibit 1

Declaration of Fredric W. Price

EXHIBIT 1

37-23474, Casa del Norte LP: Director's Report
GoogleEarth

T04S, R11E, S28

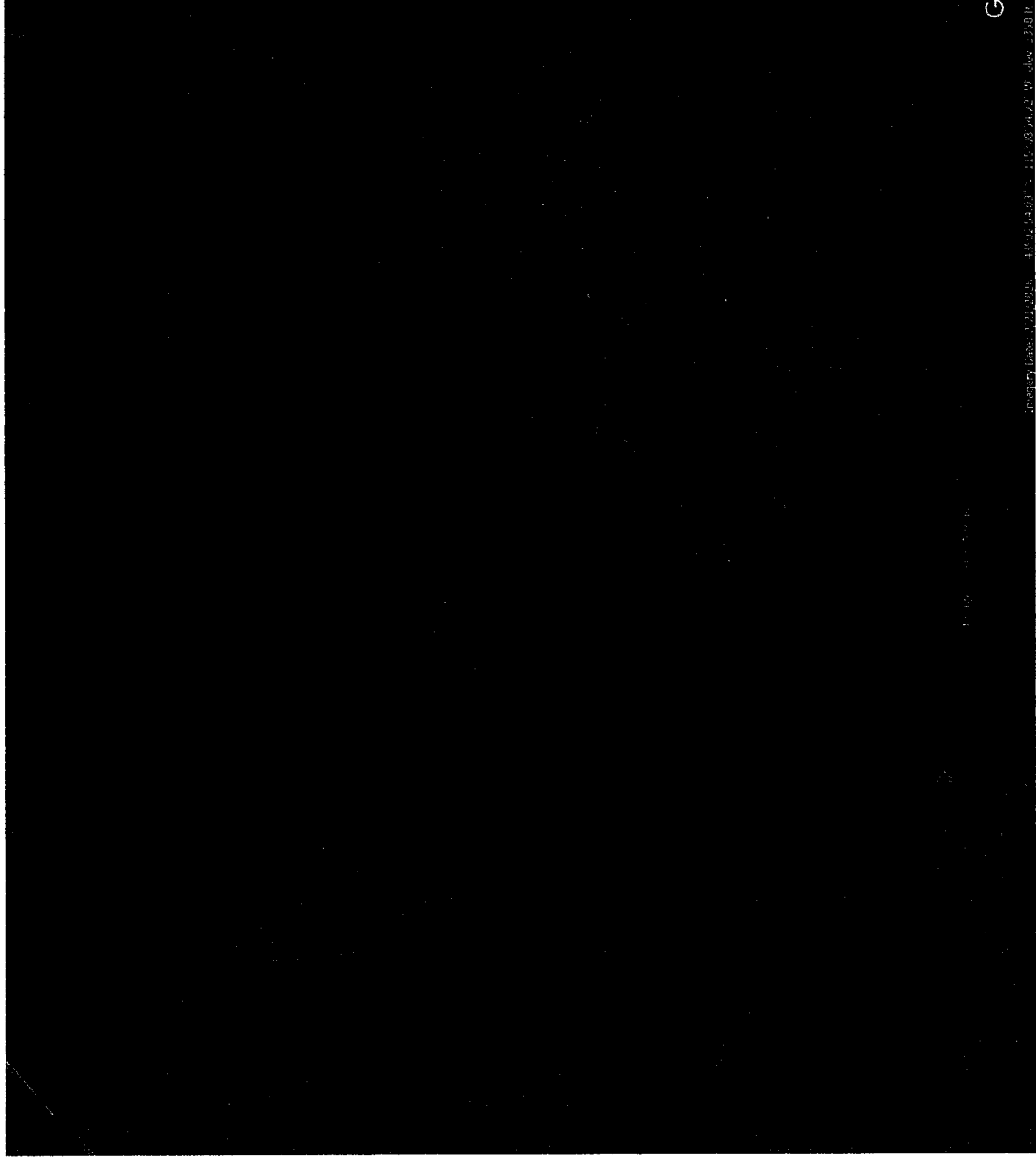


Exhibit 1

Declaration of Fredric W. Price

Page 9 of 11

EXHIBIT 1

37-23474, Casa del Norte LP: Director's Report
GoogleEarth

T04S, R11E, S28

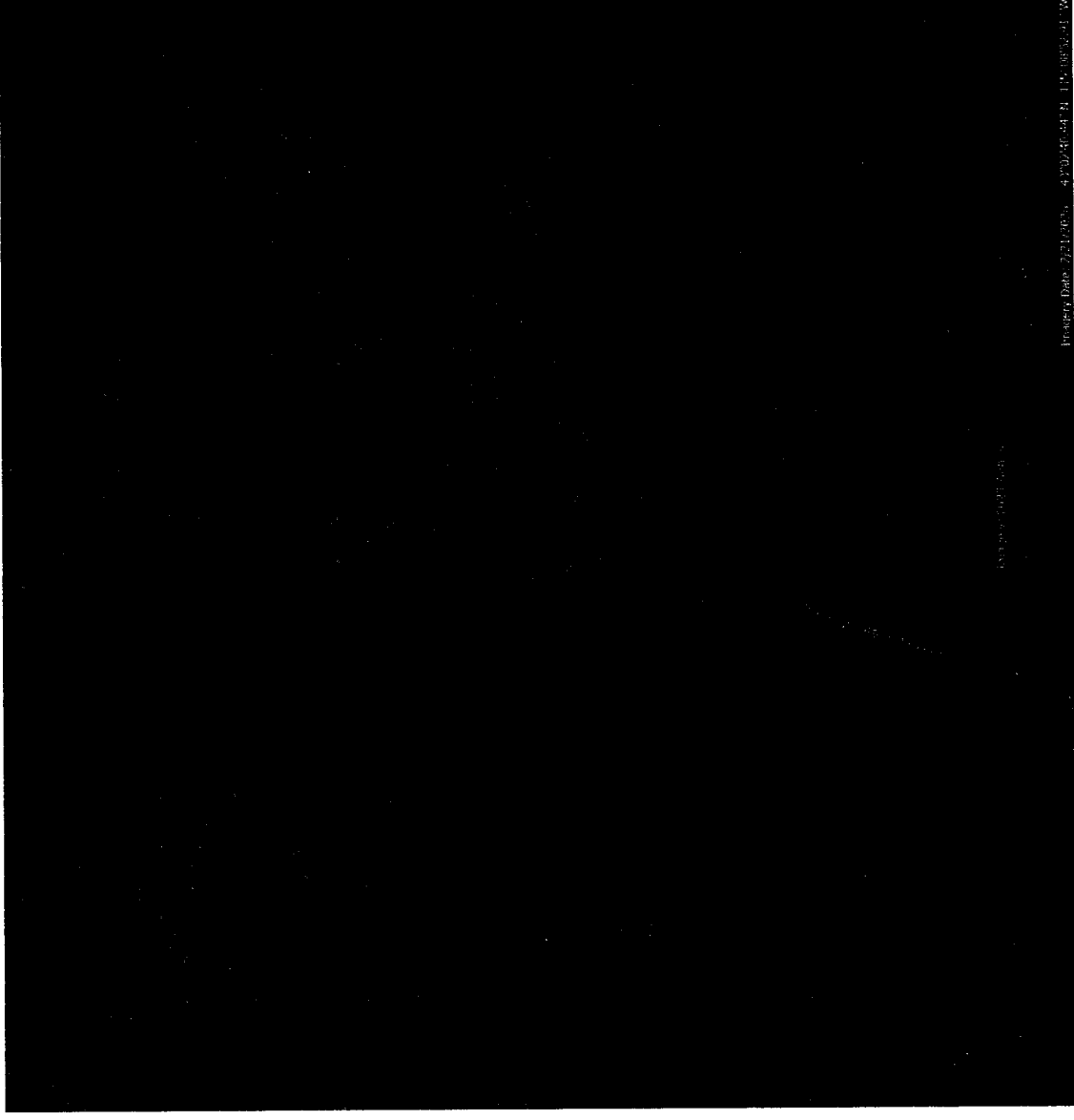


Exhibit 1

Declaration of Fredric W. Price

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EXHIBIT 1

37-23474, Casa del Norte LP: Director's Report

GoogleEarth

T04S,
R11E,
S28

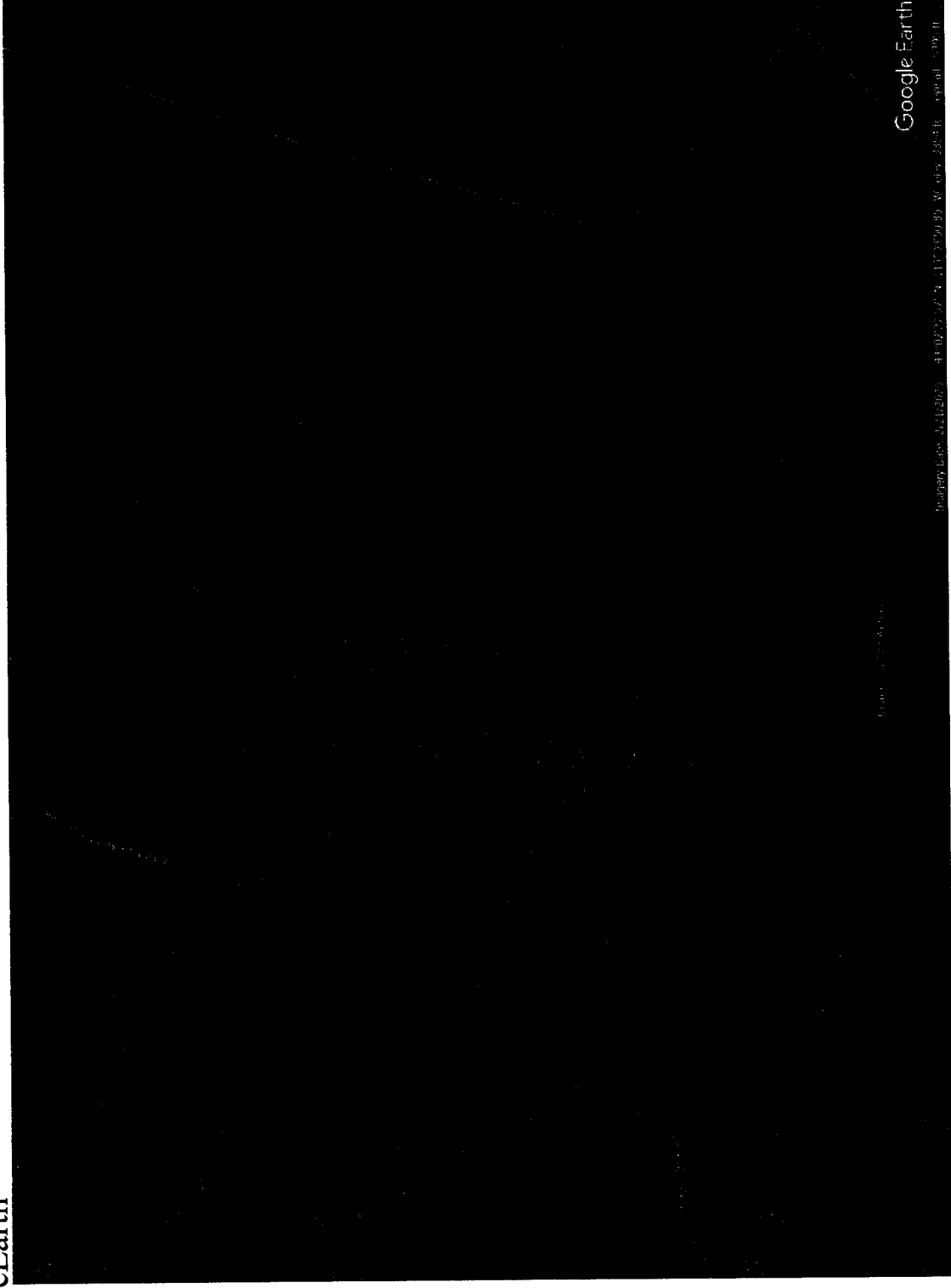


Exhibit 1

Declaration of Fredric W. Price

Page 11 of 11