



U.S. Department of Justice

Environment and Natural Resources Division

David Gehlert, Esq.  
Denver Field Office  
99918<sup>th</sup> Street, South Terrace  
Suite 370  
Denver, CO 80202

Telephone (303) 844-1386  
Facsimile (303) 844-1350  
E-mail - david.gehlert@usdoj.gov

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VIA E-MAIL

gary.spackman@idwr.idaho.gov

Gary Spackman  
Director  
Idaho Department of Water Resources  
322 East Front Street  
P. O. Box 83720  
Boise, Idaho 83720-0098

Re: In the Matter of Accounting for Distribution of Water to the Federal On-Stream  
Reservoirs in Water Districts 1 and 63

Dear Director Spackman,

This letter is to inform you, as a matter of comity, that the United States will not be participating in the contested cases recently noticed for Water Districts 1 and 63. In our view, the Government is under no obligation to do so and the United States would not be bound by the results because the contested cases do not meet the requirements of the McCarran Amendment, 43 U.S.C. § 666. At a minimum, the contested cases are premature in the absence of an adjudication of the underlying water rights. *South Delta Water Agency v. U.S. Dep't of Interior*, 767 F.2d 531, 541 (9<sup>th</sup> Cir. 1985).

Nonetheless, we remain interested in reaching a collaborative resolution of the issues relating to "refill" of Reclamation's reservoirs. To that end, we will continue to participate in the collaborative dialogue process you recently initiated with Reclamation and are open to discussing these issues in other settings as well.

Sincerely,

David Gehlert  
Trial Attorney  
U.S. Dept. of Justice

cc: Garrick Baxter, Deputy Attorney General  
Idaho Department of Water Resources