



John K. Simpson, Shelley M. Davis, of Barker Rosholt & Simpson, LLP, Boise, Idaho, attorneys for Idaho Power Company.

James C. Tucker, Senior Attorney, Idaho Power Company, Boise, Idaho, attorney for Idaho Power Company.

Randall C. Budge, Candice M. McHugh, of Racine Olson Nye Budge & Bailey, Chartered, Pocatello, Idaho, attorneys for Aberdeen-Springfield Canal Company and the Ground Water Districts.

Jerry R. Rigby, of Rigby Andrus & Moeller, Chartered, Rexburg, Idaho, attorney for Fremont Madison Irrigation District, Egin Bench Canals, Inc., Idaho Irrigation District, New Sweden Irrigation District, and United Canal Company.

Dana L. Hofstetter, of Hofstetter Law Office, LLC, Boise, Idaho, attorney for Jeff C. and Jackie Harper, Basin and Range Resource Company, LLC, and Interested Water Users.

Josephine P. Beeman, of Beeman and Associates, P.C., Boise, Idaho, attorney for the City of Pocatello.

## II. PROCEDURAL BACKGROUND AND FACTS

On May 10, 2007, Idaho Power Company (“Idaho Power”) filed a *Complaint and Petition for Declaratory and Injunctive Relief* (hereinafter “*Complaint and Petition*”), designated by this Court as subcase 00-92023, naming the State of Idaho (“the State”), the Governor, the Attorney General, and the Director of the Idaho Department of Water Resources (“IDWR”) as parties. Subcase 00-92023 is a consolidation of common issues regarding the meaning and application of the terms of the October 25, 1984, Swan Falls Agreement (“Swan Falls Agreement” or “Agreement”) and related implementing legislation and agreements as applied to twenty-six hydropower claims filed by Idaho Power.<sup>1</sup>

On June 25, 2009, the State and Idaho Power filed a number of *Joint Motions* in this subcase. The motions were based upon a proposed settlement reached between the

---

<sup>1</sup> See this Court’s *Order Granting In Part, Denying In part Motion to Dismiss; Consolidating Common Issues Into Consolidated Subcase; and Permitting Discovery Pending Objection Period in Basin 02; and Notice of Scheduling Conference* (July 24, 2007).

State and Idaho Power (but not all of the parties). As part of the settlement, the State and Idaho Power agreed to the inclusion of a number of conditions on the face of the *Partial Decrees*.

On January 4, 2010, this Court issued its *Order on Motion for Approval of Settlement* (“*Order Approving Settlement*”). On January 15, 2010, the State and Idaho Power filed a *Joint Motion for Reconsideration*. On that same date, the Interested Water Users (“IWU”) also filed a *Motion for Reconsideration*. On January 19, 2010, the Upper Snake Water Users (“USWU”) filed a *Motion for Reconsideration*.

The facts and procedural history of this case are explained in this Court’s January 4, 2010 *Order Approving Settlement*. The nature of the case, the course of proceedings, and relevant facts are therefore incorporated herein by reference.

### III.

#### MATTER DEEMED FULLY SUBMITTED FOR DECISION

Oral argument occurred in this matter on February 22, 2010. The parties did not request the opportunity to submit additional briefing and the Court does not require any additional briefing in this matter. Therefore, the matter is deemed fully submitted for decision on the next business day, or February 23, 2010.

### IV.

#### ISSUES

The State of Idaho and Idaho Power, the Upper Snake Water Users, and the Interested Water Users raise a number of issues. The Court summarizes those issues as follows:

#### A. Issues Raised by the State of Idaho and Idaho Power.

1. Whether language in Provision 1 regarding “future beneficial uses under water rights” should be changed to “any other water right”?

**B. Issues Raised by the Upper Snake Water Users.**

1. Whether language in Provision 1 regarding “future beneficial uses under water rights” should be changed to “any other water right”?
2. Whether this Court should set a hearing schedule to determine whether the literal application of paragraph 7(D) of the Swan Falls Agreement would create a latent ambiguity and result in unintended “rebound calls”?

**C. Issues Raised by Interested Water Users.**

1. Whether language in Provision 1 regarding “future beneficial uses” should be clarified to include a date certain of October 1, 1984, instead of October 25, 1984?
2. Whether proposed language for Other Provision 4 and Other Provision 5 should be revised to include valid beneficial use rights first claimed in the SRBA, in order to avoid “rebound calls”?

**V.  
ANALYSIS AND DISCUSSION**

**A. The parties have stipulated to the proposed “any other water right” language for Provision 1.**

The following language from Provision 1 for the trust rights was at issue during the proceedings on the State and Idaho Power’s *Joint Motions*:

In addition to the subordination defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by *future* beneficial uses under water rights acquired pursuant to applicable state law, unless any such water right is unlawfully exercised or such use depletes or will deplete the average daily flow of the Snake River below 3900 CFS from April 1 to October 31 or below 5600 CFS from November

1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2.

(emphasis added). The parties proposed modifications to this language, arguing that the term "future" was ambiguous.<sup>2</sup> In its *Order Approving Settlement*, this Court determined that the inclusion of a date certain (October 25, 1984) in Provision 1 would be more consistent with the original language of the Swan Falls Agreement.<sup>3</sup> In their *Joint Motion for Reconsideration*, the State and Idaho Power requested that the Court strike the phrase "future beneficial uses," along with the date certain, and make the following modifications to the original language:

In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by ~~future beneficial uses under water rights~~ any other water right acquired pursuant to applicable state law, unless ~~any~~ such other water right is unlawfully exercised or ~~such use~~ depletes or will deplete the average ...

The State and Idaho Power argued that the use of October 25, 1984 as the date certain may have the unintended effect of creating a new class of water rights that would not be protected by subordination. In their *Motions for Reconsideration*, the IWU and the USWU agreed that the October 25, 1984 date would have unintended consequences.<sup>4</sup>

At the hearing on the *Motions for Reconsideration*, the parties stipulated that the State and Idaho Power's proposed language would resolve any potential confusion or ambiguity. This Court agrees. Therefore, the proposal submitted by the State and Idaho Power should be included on the face of the *Partial Decrees* for the trust rights.

**B. The issue of the meaning of the term "future beneficial uses" in Provision 4 and Provision 5 shall be consolidated with Basin-Wide Issue 13 (Subcase 91-13).**

---

<sup>2</sup> The ambiguity identified by the parties involved whether or not the term "future" referred to a point in time after the execution of the Swan Falls Agreement or referred to a point in time after the Partial Decree was issued.

<sup>3</sup> The inclusion of the date October 25, 1984 was the result of a typographical error. The date certain should have been October 1, 1984, as provided in the Swan Falls Agreement.

<sup>4</sup> These arguments, however, were eliminated by the Court's recognition that the provision should have stated October 1, 1984.

Also at issue during the proceedings on the State and Idaho Power's *Joint Motions* was the following paragraph from Provision 4 for Idaho Power's rights, and Provision 5 for the trust water rights:

This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 1, 1984 and who filed an application or claim for said use by June 30, 1985.

This language is essentially the same as the language of Paragraph 7(D) of the Swan Falls Agreement.

The IWU and the USWU argued that the intention of the Swan Falls Agreement was for the filing deadline to include beneficial use claims filed in the SRBA. The IWU and USWU argued that failing to extend the subordination protections to those claimants who missed the June 30, 1985 deadline but filed claims in the SRBA undermined the purpose of the subordination provision and violated the Idaho Constitution and statutory mandates to protect senior priority rights. In essence, the IWU and USWU argued that the provisions' language created the potential for a "rebound call." The IWU aptly illustrated a "rebound call" situation by example:

Under the proposed language, a 1982 priority right could be considered a protected existing use [under the Agreement], while a 1930 beneficial use right first claimed in the SRBA, although valid, would not similarly be protected. The 1982 right would not be subject to an Idaho Power call [pursuant to the subordination provision], but the 1930 right could be. In lieu of being curtailed, the 1930 right holder likely would, in turn, attempt to call out the 1982 right holder, thereby vitiating the intent to protect the 1982 right holder from the Idaho Power call.

*IWU Response Brief*, p. 10. The State and Idaho Power responded that extending the deadline beyond June 30, 1985 was contrary to the intent of the Agreement. In the *Order Approving Settlement*, this Court agreed with the State and Idaho Power, holding that if the intent of the Agreement was to "subordinate Idaho Power's hydropower rights to those who beneficially used water prior to October 1, 1984 and who filed claims in the SRBA, the Agreement would have provided as such." *Order Approving Settlement*, pp. 17-18. This Court acknowledged that a showing of unintended consequences arising from the literal application of the provisions might establish a latent ambiguity, but a

“full summary judgment or evidentiary hearing would be necessary” in order to establish such ambiguity or any intent contrary to the language of the Agreement. *Id.*, p. 18.

The IWU filed a *Motion for Reconsideration*, asserting that the provisions’ language is ambiguous and contrary to public policy. Further, the IWU argued that issuing the trust water and Idaho Power decrees would be inconsistent with other partial decrees issued in the SRBA, and would result in “rebound calls.”

At oral argument on the motions for reconsideration, the State, Idaho Power, and the USWU stipulated to resolving the “rebound call” issue through the development of evidence and more information. The stipulation suggested that SRBA subcase 00-91013, or Basin-Wide Issue 13, would be the appropriate proceeding to develop such evidence and information. While the IWU did not object to the “rebound call” issue going forward in Basin-Wide Issue 13, the parties disagreed about the proper mechanism for decreeing the remaining elements of the water rights at issue.

Therefore, the matter of whether beneficial use rights first claimed in the SRBA are protected by the subordination provision of paragraph 7(D) of the Swan Falls Agreement shall be consolidated with Basin-Wide Issue 13 for further resolution. Further, this Court will “partially” decree all elements of the water rights at issue, with the exception of language pertaining to the “rebound-call” or “future beneficial uses” issue in Provision 4 for the Idaho Power rights and Provision 5 for the trust water rights. As such, the only matter remaining as a precondition to issuing full partial decrees for the water rights at issue is the resolution of the “rebound call” issue, to be decided in Basin-Wide Issue 13. Proceeding in this manner establishes finality for all elements and remarks for each of the water rights and eliminates the need to set aside and amend the partial decrees once the “rebound call” issue is decided.

## VI. CONCLUSION

Accordingly, the Court will grant the *Joint Motions*, subject to the foregoing modifications:

1. The phrases “future beneficial uses under water rights” and “such use” will be deleted from Provision 1 in the *Partial Decrees* for the trust rights and the following language added as underlined below:

**In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by ~~future beneficial uses under water rights~~ any other water right acquired pursuant to applicable state law, unless ~~any such other water right~~ any such other water right is unlawfully exercised or ~~such use depletes or will deplete the average ...~~**

2. The following language will be added to the end of Provision 1 for both sets of rights:

**Fluctuations resulting from Idaho Power’s operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.**

3. The following language will be added to Provision 3 for Idaho Power’s rights and Provision 4 for the trust water rights:

**(A list of the original dismissed water right holders is made part of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and the renumbering.)**

4. All elements of Idaho Power’s rights shall be decreed, with the exception of this language in Provision 4, which implicates the “rebound call” issue:

**This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 1, 1984 and who filed an application or claim for said use by June 30, 1985.**

5. All elements of the trust water rights shall be decreed, with the exception of this language in Provision 5, which implicates the “rebound call” issue:

**This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 1, 1984 and who filed an application or claim for said use by June 30, 1985.**

**VII.  
ORDER**

Subject to the above-stated modifications, THE FOLLOWING ARE HEREBY ORDERED:

1. The *State of Idaho's and Idaho Power Company's Joint Motion for Entry of Partial Decrees Re: Water Rights in Basin 02 and Basin 37* is **GRANTED**.
2. The *State of Idaho's and Idaho Power Company's Joint Motion to Consolidate Water Right 02-10135 With Consolidated Subcase 92-23* is **GRANTED**.
3. The *State of Idaho's and Idaho Power Company's Stipulation and Joint Motion to Dismiss Complaint and Petition for Declaratory and Injunctive Relief* is **GRANTED**. Idaho Power's *Complaint and Petition for Declaratory and Injunctive Relief* is hereby **DISMISSED**.
4. The *State of Idaho's and Idaho Power Company's Joint Motion to Modify Partial Decrees Re: Water Rights 36-02013, 36-02018 and 36-02026* is **GRANTED**.
5. The "rebound-call" issue as described in detail above is hereby **CONSOLIDATED** with Basin-Wide Issue 13 (subcase 00-91013) for resolution.
6. In accordance with the foregoing, the elements for the above-captioned water rights are hereby **DECREED** as set forth in the attached *Partial Decrees*, pursuant to I.R.C.P. 54(b) and entered contemporaneously herewith. All elements of each water right are decreed, with the exception of Provision 4 for Idaho Power's rights and

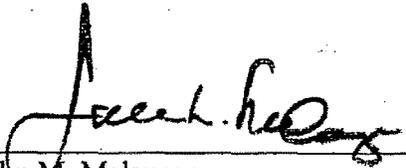
Provision 5 for the trust water rights. As mentioned above, language in Provision 4 and Provision 5 is the subject of the "rebound call" issue, which has been consolidated with and shall be resolved in Basin-Wide Issue 13 (subcase 00-91013).

**VIII.  
RULE 54(b) CERTIFICATE**

With respect to the issues determined by the above judgment or order it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

IT IS SO ORDERED.

Dated: March 25, 2010

  
\_\_\_\_\_  
John M. Melanson  
Presiding Judge, *Pro Tem*  
Snake River Basin Adjudication

DRAFT

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 ) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576 )
)
) Water Right 02-00100

NAME & ADDRESS: IDAHO POWER COMPANY
PO BOX 70
BOISE ID 83707

SOURCES: SNAKE RIVER Tributary: COLUMBIA RIVER
COVE CREEK Tributary: MALAD RIVER
MALAD RIVER Tributary: SNAKE RIVER
THOUSAND SPRINGS Tributary: SNAKE RIVER
SNOW BANK SPRINGS Tributary: SNAKE RIVER
CLEAR LAKE Tributary: SNAKE RIVER
SAND SPRINGS CREEK Tributary: SNAKE RIVER

QUANTITY: 2150.00 CFS

PRIORITY DATE: 01-17-1900

POINTS OF DIVERSION: T02S R01E S18 LOT 10 (SESWSE) Within Owyhee County
LOT 11 (NWESE) Within Ada County (Swan Falls Dam)
T09S R18E S31 LOT 8 (NESW) Within Twin Falls County
LOT 9 (NWSW) Within Jerome County (Shoshone Falls)
T10S R18E S04 LOT 2 (NWNW) Within Twin Falls County (Twin Falls)
LOT 3 (NENW)
T06S R12E S07 LOT 10 (SWNESE) Within Elmore County
LOT 5 (SWNESE) Within Gooding County (Bliss Dam)
T07S R13E S02 LOT 7 (SESW) Within Gooding County (Lower Salmon
LOT 8 (SWSW) Falls)
T08S R13E S02 LOT 1 (NWNE) Within Gooding County
LOT 2 (NWNE) Within Twin Falls County (Upper Salmon
Falls)
T06S R13E S25 SWSW Within Gooding County
S35 NENW
NENW (Injection)
NENW (Rediversion) (Malad River)
T06S R13E S25 SWSW Within Gooding County (Malad River)
T06S R13E S36 NWNW
T08S R14E S08 SWNWSE Within Gooding County
NESWSE
NWSWSE
SESWSE (Thousand Springs, Snowbank Springs)
T09S R14E S02 LOT 7 (NESWSE) Within Gooding County (Clear Lake)
T08S R14E S17 SENWSE Within Gooding County (Sand Springs
Creek)

PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
POWER 01-01 TO 12-31 2150.00 CFS

Power generation is at Swan Falls Dam Power Plant, Shoshone Falls Power Plant, Twin Falls Power Plant, Bliss Dam Power Plant, Lower Salmon Falls Power Plant, Upper Salmon Falls Power Plant, Lower Malad Gorge Power Plant, Upper Malad Gorge Power Plant, Clear Lake Power Plant and Thousand Spring Power Plant.

PLACES OF USE:

POWER T02S R01E S18 LOT 11	Within Ada County (SESE) (Swan Falls Dam Power Plant)
POWER T09S R17E S36 LOT 15	Within Jerome County (NESE) (Shoshone Falls Power Plant)
POWER T10S R18E S04 LOT 3	Within Twin Falls County (NENW) (Twin Falls Power Plant)
POWER T06S R12E S07 LOT 5	Within Gooding County (NESE) (Bliss Dam Power Plant)
POWER T07S R13E S02 LOT 7	Within Gooding County (SESW) (Lower Salmon Falls Power Plant)
POWER T08S R13E S02 LOT 4 S03 LOT 1 LOT 3	Within Twin Falls County (NWNW) (NENE) (NWNW) (Upper Salmon Falls Power Plant)
POWER T06S R13E S27 LOT 2	Within Gooding County (SWSW) (Lower Malad Gorge Power Plant)
POWER T06S R13E S35	Within Gooding County NENW (Upper Malad Gorge Power Plant)
POWER T08S R14E S08 Lot 3	Within Gooding County (NESW) (Thousand Springs Power Plant)
POWER T09S R14E S02 LOT 7	Within Gooding County (SWSE) (Clear Lake Power Plant)
POWER T08S R14E S08 LOT 3	Within Gooding County (NESW) (Thousand Springs Power Plant)

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

1. Water right nos. 02-00100, 02-02032A, 02-04000A, and 02-04001A collectively entitle Idaho Power Company to an unsubordinated water right, except as provided in paragraph nos. 3 and 4 below, to average daily flows of 3900 CFS from April 1 to October 31 and 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. These flows are not subject to depletion, except for depletions caused by the lawful exercise of those water rights identified in paragraph nos. 3 and 4 below, and except for depletions resulting from any diversions or uses of the waters identified in paragraph 5 below. Water right nos. 02-00100, 02-02032A, 02-04000A and 02-04001A are satisfied when the average daily flows set forth herein are met or exceeded. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial

Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 1, 1964 and who filed an application or claim for said use by June 30, 1985.

5. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

6. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

7. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication



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

**DRAFT**

In Re SRBA ) PARTIAL DECREE PURSUANT TO  
Case No. 39576 ) I.R.C.P. 54(b) FOR  
\_\_\_\_\_ ) Water Right 02-4000A

NAME & ADDRESS: IDAHO POWER COMPANY  
PO BOX 70  
BOISE ID 83707

SOURCES: SNAKE RIVER Tributary: COLUMBIA RIVER  
COVE CREEK Tributary: MALAD RIVER  
MALAD RIVER Tributary: SNAKE RIVER  
THOUSAND SPRINGS Tributary: SNAKE RIVER  
SNOW BANK SPRINGS Tributary: SNAKE RIVER  
CLEAR LAKE Tributary: SNAKE RIVER  
SAND SPRINGS CREEK Tributary: SNAKE RIVER

QUANTITY: 1840.00 CFS

PRIORITY DATE: 01-17-1900

POINTS OF DIVERSION: T02S R01E S18 LOT 10 (SESW) Within Owyhee County  
LOT 11 (NWSESE) Within Ada County (Swan Falls Dam)

T09S R18E S31 LOT 8 (NESW) Within Twin Falls County  
LOT 9 (NWSW) Within Jerome County (Shoshone Falls)

T10S R18E S04 LOT 2 (NWNW) Within Twin Falls County (Twin Falls)  
LOT 3 (NENW)

T06S R12E S07 LOT 10 (SWNESE) Within Elmore County  
LOT 5 (SWNESE) Within Gooding County (Bliss Dam)

T07S R13E S02 LOT 7 (SESW) Within Gooding County (Lower Salmon  
LOT 8 (SWSW) Falls)

T08S R13E S02 LOT 1 (NWNW) Within Gooding County  
LOT 2 (NWNW) Within Twin Falls County (Upper Salmon  
Falls)

T06S R13E S25 SWSW Within Gooding County  
S35 NENW  
NENW (Injection)  
NENW (Rediversion) (Malad River)

T06S R13E S25 SWSW Within Gooding County (Malad River)  
T06S R13E S36 NWNW

T08S R14E S08 SWNWSE Within Gooding County  
NESWSE  
NWSWSE  
SESWSE (Thousand Springs, Snowbank Springs)

T09S R14E S02 LOT 7 (NESWSE) Within Gooding County (Clear Lake)

T08S R14E S17 SENWSE Within Gooding County (Sand Springs  
Creek)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	POWER	11-01 TO 03-31	1840.00 CFS
	POWER	04-01 TO 10-31	1750.00 CFS

Power generation is at Swan Falls Dam Power Plant, Shoshone Falls Power Plant, Twin Falls Power Plant, Bliss Dam Power Plant, Lower Salmon Falls Power Plant, Upper Salmon Falls Power Plant, Lower

Malad Gorge Power Plant, Upper Malad Gorge Power Plant, Clear Lake Power Plant and Thousand Spring Power Plant.

PLACES OF USE:

POWER T02S R01E S18 LOT 11	Within Ada County (SESE) (Swan Falls Dam Power Plant)
POWER T09S R17E S36 LOT 15	Within Jerome County (NESE) (Shoshone Falls Power Plant)
POWER T10S R18E S04 LOT 3	Within Twin Falls County (NENW) (Twin Falls Power Plant)
POWER T06S R12E S07 LOT 5	Within Gooding County (NESE) (Bliss Dam Power Plant)
POWER T07S R13E S02 LOT 7	Within Gooding County (SESW) (Lower Salmon Falls Power Plant)
POWER T08S R13E S02 LOT 4 S03 LOT 1 LOT 3	Within Twin Falls County (NWNW) (NENE) (NWNW) (Upper Salmon Falls Power Plant)
POWER T06S R13E S27 LOT 2	Within Gooding County (SWSW) (Lower Malad Gorge Power Plant)
POWER T06S R13E S35	Within Gooding County NENW (Upper Malad Gorge Power Plant)
POWER T08S R14E S08 Lot 3	Within Gooding County (NESW) (Thousand Springs Power Plant)
POWER T09S R14E S02 LOT 7	Within Gooding County (SWSE) (Clear Lake Power Plant)
POWER T08S R14E S08 LOT 3	Within Gooding County (NESW) (Thousand Springs Power Plant)

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

1. Water right nos. 02-00100, 02-02032A, 02-04000A, and 02-04001A collectively entitle Idaho Power Company to an unsubordinated water right, except as provided in paragraph nos. 3 and 4 below, to average daily flows of 3900 CFS from April 1 to October 31 and 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. These flows are not subject to depletion, except for depletions caused by the lawful exercise of those water rights identified in paragraph nos. 3 and 4 below, and except for depletions resulting from any diversions or uses of the waters identified in paragraph 5 below. Water right nos. 02-00100, 02-02032A, 02-04000A and 02-04001A are satisfied when the average daily flows set forth herein are met or exceeded. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 1, 1984 and who filed an application or claim for said use by June 30, 1985.

5. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

6. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

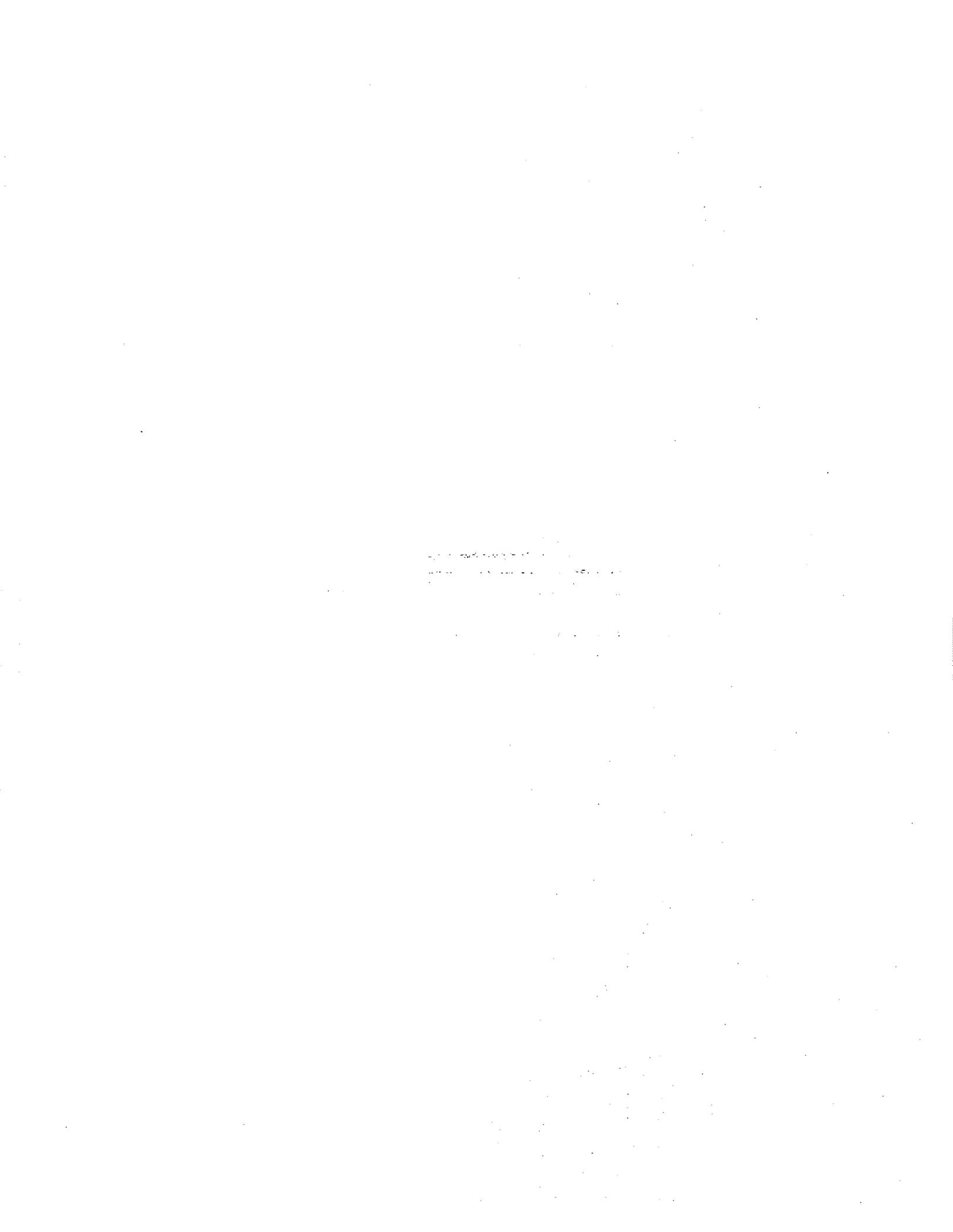
7. This partial decree is subject to such general provisions necessary for the definition of the water rights or for the efficient administration of the water rights as may be ultimately determined by the court at a point in time no later than the entry of a final unified decree. I.C. Section 42-1416(6).

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication



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

**DRAFT**

In Re SRBA )  
Case No. 39576 )  
PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 02-04001A

NAME & ADDRESS: IDAHO POWER COMPANY  
PO BOX 70  
BOISE ID 83707

SOURCES: SNAKE RIVER Tributary: COLUMBIA RIVER  
COVE CREEK Tributary: MALAD RIVER  
MALAD RIVER Tributary: SNAKE RIVER  
THOUSAND SPRINGS Tributary: SNAKE RIVER  
SNOW BANK SPRINGS Tributary: SNAKE RIVER  
CLEAR LAKE Tributary: SNAKE RIVER  
SAND SPRINGS CREEK Tributary: SNAKE RIVER

QUANTITY: 1460.00 CFS

PRIORITY DATE: 04-17-1900

POINTS OF DIVERSION: T02S R01E S18 LOT 10 (SESWSE) Within Owyhee County  
LOT 11 (NWSESE) Within Ada County (Swan Falls Dam)  
T09S R18E S31 LOT 8 (NESW) Within Twin Falls County  
LOT 9 (NWSW) Within Jerome County (Shoshone Falls)  
T10S R18E S04 LOT 2 (NWNW) Within Twin Falls County (Twin Falls)  
LOT 3 (NENW)  
T06S R12E S07 LOT 10 (SWNESE) Within Elmore County  
LOT 5 (SWNESE) Within Gooding County (Bliss Dam)  
T07S R13E S02 LOT 7 (SESW) Within Gooding County (Lower Salmon  
LOT 8 (SWSW) Falls)  
T08S R13E S02 LOT 1 (NWNE) Within Gooding County  
LOT 2 (NWNE) Within Twin Falls County (Upper Salmon  
Falls)  
T06S R13E S25 SWSW Within Gooding County  
S35 NENW  
NENW (Injection)  
NENW (Rediversion) (Malad River)  
T06S R13E S25 SWSW Within Gooding County (Malad River)  
T06S R13E S36 NWNW  
T08S R14E S08 SWNWSE Within Gooding County  
NESWSE  
NWSWSE  
SESWSE (Thousand Springs, Snowbank Springs)  
T09S R14E S02 LOT 7 (NESWSE) Within Gooding County (Clear Lake)  
T08S R14E S17 SENWSE Within Gooding County (Sand Springs  
Creek)

PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
POWER 11-01 TO 03-31 1460.00 CFS

Power generation is at Swan Falls Dam Power Plant, Shoshone Falls Power Plant, Twin Falls Power Plant, Bliss Dam Power Plant, Lower Salmon Falls Power Plant, Upper Salmon Falls Power Plant, Lower

Malad Gorge Power Plant, Upper Malad Gorge Power Plant, Clear Lake Power Plant and Thousand Spring Power Plant.

PLACES OF USE:	POWER	Within Ada County
	T02S R01E S18 LOT 11	(SESE) (Swan Falls Dam Power Plant)
	POWER	Within Jerome County
	T09S R17E S36 LOT 15	(NESE) (Shoshone Falls Power Plant)
	POWER	Within Twin Falls County
	T10S R18E S04 LOT 3	(NENW) (Twin Falls Power Plant)
	POWER	Within Gooding County
	T06S R12E S07 LOT 5	(NESE) (Bliss Dam Power Plant)
	POWER	Within Gooding County
	T07S R13E S02 LOT 7	(SESW) (Lower Salmon Falls Power Plant)
	POWER	Within Twin Falls County
	T08S R13E S02 LOT 4	(NWNW)
	S03 LOT 1	(NENE)
	LOT 3	(NWNW) (Upper Salmon Falls Power Plant)
	POWER	Within Gooding County
	T06S R13E S27 LOT 2	(SWSW) (Lower Malad Gorge Power Plant)
	POWER	Within Gooding County
	T06S R13E S35	NENW (Upper Malad Gorge Power Plant)
	POWER	Within Gooding County
	T08S R14E S08 Lot 3	(NESW) (Thousand Springs Power Plant)
	POWER	Within Gooding County
	T09S R14E S02 LOT 7	(SWSE) (Clear Lake Power Plant)
	POWER	Within Gooding County
	T08S R14E S08 LOT 3	(NESW) (Thousand Springs Power Plant)

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

1. Water right nos. 02-00100, 02-02032A, 02-04000A, and 02-04001A collectively entitle Idaho Power Company to an unsubordinated water right, except as provided in paragraph nos. 3 and 4 below, to average daily flows of 3900 CFS from April 1 to October 31 and 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. These flows are not subject to depletion, except for depletions caused by the lawful exercise of those water rights identified in paragraph nos. 3 and 4 below, and except for depletions resulting from any diversions or uses of the waters identified in paragraph 5 below. Water right nos. 02-00100, 02-02032A, 02-04000A and 02-04001A are satisfied when the average daily flows set forth herein are met or exceeded. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 1, 1984 and who filed an application or claim for said use by June 30, 1985.

5. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

6. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

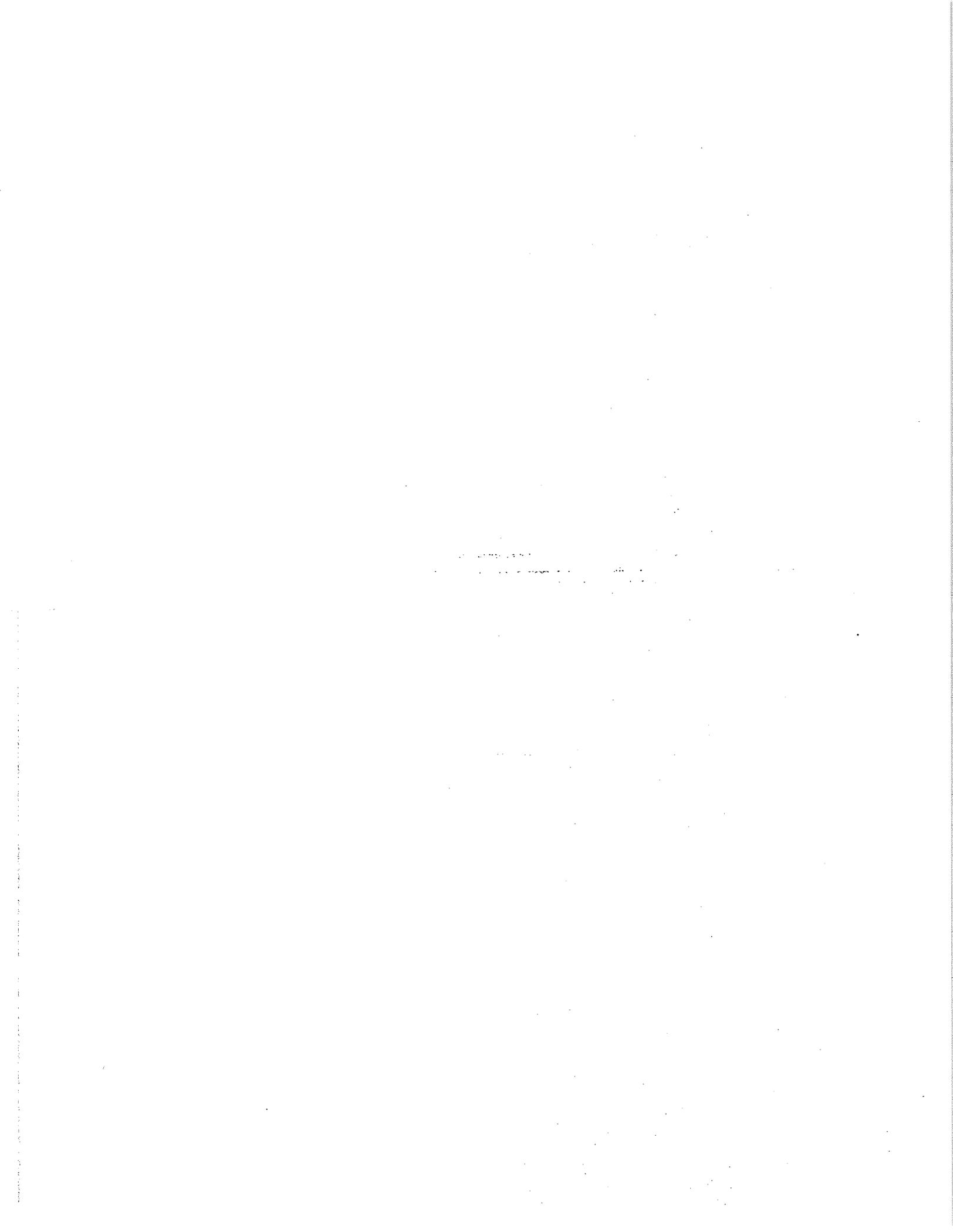
7. This partial decree is subject to such general provisions necessary for the definition of the water rights or for the efficient administration of the water rights as may be ultimately determined by the court at a point in time no later than the entry of a final unified decree. I.C. Section 42-1416(6).

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication



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 ) PARTIAL DECREE PURSUANT TO  
Case No. 39576 ) I.R.C.P. 54(b) FOR  
\_\_\_\_\_ ) Water Right 02-02032A

**DRAFT**

NAME & ADDRESS: IDAHO POWER COMPANY  
PO BOX 70  
BOISE ID 83707

SOURCES: SNAKE RIVER Tributary: COLUMBIA RIVER  
COVE CREEK Tributary: MALAD RIVER  
MALAD RIVER Tributary: SNAKE RIVER  
THOUSAND SPRINGS Tributary: SNAKE RIVER  
SNOW BANK SPRINGS Tributary: SNAKE RIVER  
CLEAR LAKE Tributary: SNAKE RIVER  
SAND SPRINGS CREEK Tributary: SNAKE RIVER

QUANTITY: 150.00 CFS

PRIORITY DATE: 07-29-1919

POINTS OF DIVERSION: T02S R01E S18 LOT 10 (SESWSE) Within Owyhee County  
LOT 11 (NWSESE) Within Ada County (Swan Falls Dam)

T09S R18E S31 LOT 8 (NESW) Within Twin Falls County  
LOT 9 (NWSW) Within Jerome County (Shoshone Falls)

T10S R18E S04 LOT 2 (NWNW) Within Twin Falls County (Twin Falls)  
LOT 3 (NENW)

T06S R12E S07 LOT 10 (SWNESE) Within Elmore County  
LOT 5 (SWNESE) Within Gooding County (Bliss Dam)

T07S R13E S02 LOT 7 (SESW) Within Gooding County (Lower Salmon  
LOT 8 (SWSW) Falls)

T08S R13E S02 LOT 1 (NWNE) Within Gooding County  
LOT 2 (NWNE) Within Twin Falls County (Upper Salmon  
Falls)

T06S R13E S25 SWSW Within Gooding County  
S35 NENW  
NENW (Injection)  
NENW (Rediversion) (Malad River)

T06S R13E S25 SWSW Within Gooding County (Malad River)  
T06S R13E S36 NWNW

T08S R14E S08 SWNWSE Within Gooding County  
NESWSE  
NWSWSE  
SESWSE (Thousand Springs, Snowbank Springs)

T09S R14E S02 LOT 7 (NESWSE) Within Gooding County (Clear Lake)

T08S R14E S17 SENWSE Within Gooding County (Sand Springs  
Creek)

PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
POWER 11-01 TO 03-31 150.00 CFS

Power generation is at Swan Falls Dam Power Plant, Shoshone Falls Power Plant, Twin Falls Power Plant, Bliss Dam Power Plant, Lower Salmon Falls Power Plant, Upper Salmon Falls Power Plant, Lower

Malad Gorge Power Plant, Upper Malad Gorge Power Plant, Clear Lake Power Plant and Thousand Spring Power Plant.

PLACES OF USE:	POWER	Within Ada County
	T02S R01E S18 LOT 11	(SESE) (Swan Falls Dam Power Plant)
	POWER	Within Jerome County
	T09S R17E S36 LOT 15	(NESE) (Shoshone Falls Power Plant)
	POWER	Within Twin Falls County
	T10S R18E S04 LOT 3	(NENW) (Twin Falls Power Plant)
	POWER	Within Gooding County
	T06S R12E S07 LOT 5	(NESE) (Bliss Dam Power Plant)
	POWER	Within Gooding County
	T07S R13E S02 LOT 7	(SESW) (Lower Salmon Falls Power Plant)
	POWER	Within Twin Falls County
	T08S R13E S02 LOT 4	(NWNW)
	S03 LOT 1	(NENE)
	LOT 3	(NWNW) (Upper Salmon Falls Power Plant)
	POWER	Within Gooding County
	T06S R13E S27 LOT 2	(SWSW) (Lower Malad Gorge Power Plant)
	POWER	Within Gooding County
	T06S R13E S35	NENW (Upper Malad Gorge Power Plant)
	POWER	Within Gooding County
	T08S R14E S08 Lot 3	(NESW) (Thousand Springs Power Plant)
	POWER	Within Gooding County
	T09S R14E S02 LOT 7	(SWSE) (Clear Lake Power Plant)
	POWER	Within Gooding County
	T08S R14E S08 LOT 3	(NESW) (Thousand Springs Power Plant)

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

1. Water right nos. 02-00100, 02-02032A, 02-04000A, and 02-04001A collectively entitle Idaho Power Company to an unsubordinated water right, except as provided in paragraph nos. 3 and 4 below, to average daily flows of 3900 CFS from April 1 to October 31 and 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. These flows are not subject to depletion, except for depletions caused by the lawful exercise of those water rights identified in paragraph nos. 3 and 4 below, and except for depletions resulting from any diversions or uses of the waters identified in paragraph 5 below. Water right nos. 02-00100, 02-02032A, 02-04000A and 02-04001A are satisfied when the average daily flows set forth herein are met or exceeded. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 1, 1984 and who filed an application or claim for said use by June 30, 1985.

5. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

6. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

7. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication



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

DRAFT

In Re SRBA )  
                  ) PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  ) Water Right 02-4000B

NAME & ADDRESS: STATE OF IDAHO  
TRUSTEE  
STATEHOUSE  
PO BOX 83720  
BOISE ID 83720

SOURCE: SNAKE RIVER Tributary: COLUMBIA RIVER

QUANTITY: 90.00 CFS

PRIORITY DATE: 01-17-1900

POINT OF DIVERSION: T02S R01E S18 LOT 10 (SESWE) Within Owyhee County  
LOT 11 (NWESE) Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	POWER	04-01 TO 10-31	90.00 CFS

Power generation is at the Swan Falls Dam Power Plant.

PLACE OF USE: POWER Within Ada County  
T02S R01E S18 LOT 11 (SESE)

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

1. Legal title to this water right is held in trust by the State of Idaho, by and through the Governor, for the benefit of Idaho Power Company as the user of the water for power purposes and for the benefit of the people of the State of Idaho. In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by any other water right acquired pursuant to applicable state law, unless such other water right is unlawfully exercised or depletes or will deplete the average daily flow of the Snake River below 3900 CFS from April 1 to October 31 or below 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. Idaho Power Company, as user of the water for power purposes and a beneficiary of the trust referenced above, is entitled to use the water available at the facility identified herein to the extent of its actual beneficial use but not to exceed the "QUANTITY" set forth above, and to protect its rights to such use of the water as provided by state law against depletions or claims not in accordance with state law.

4. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

~~This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 1, 1984, and who filed an application or claim for said use by June 30, 1985.~~

6. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

7. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

8. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

**DRAFT**

\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

**DRAFT**

\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

DRAFT

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 ) PARTIAL DECREE PURSUANT TO  
 ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
 )  
 ) Water Right 02-04001B

NAME & ADDRESS: STATE OF IDAHO  
TRUSTEE  
STATEHOUSE  
PO BOX 83720  
BOISE ID 83720

SOURCE: SNAKE RIVER Tributary: COLUMBIA RIVER

QUANTITY: 1460.00 CFS

PRIORITY DATE: 04-17-1900

POINT OF DIVERSION: T02S R01E S18 LOT 10 (SESWSE) Within Owyhee County  
LOT 11 (NWSESE) Within Ada County

PURPOSE AND  
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
POWER 04-01 TO 10-31 1460.00 CFS

Power generation is at the Swan Falls Dam Power Plant.

PLACE OF USE: POWER Within Ada County  
T02S R01E S18 LOT 11 (SESE)

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

1. Legal title to this water right is held in trust by the State of Idaho, by and through the Governor, for the benefit of Idaho Power Company as the user of the water for power purposes and for the benefit of the people of the State of Idaho. In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by any other water right acquired pursuant to applicable state law, unless such other water right is unlawfully exercised or depletes or will deplete the average daily flow of the Snake River below 3900 CFS from April 1 to October 31 or below 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. Idaho Power Company, as user of the water for power purposes and a beneficiary of the trust referenced above, is entitled to use the water available at the facility identified herein to the extent of its actual beneficial use but not to exceed the "QUANTITY" set forth above, and to protect its rights to such use of the water as provided by state law against depletions or claims not in accordance with state law.

4. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

5. This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 1, 1984 and who filed an application or claim for said use by June 30, 1985.

6. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

7. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

8. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

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

DRAFT

In Re SRBA ) PARTIAL DECREE PURSUANT TO  
Case No. 39576 ) I.R.C.P. 54(b) FOR  
\_\_\_\_\_ ) Water Right 02-02032B

NAME & ADDRESS: STATE OF IDAHO  
TRUSTEE  
STATEHOUSE  
PO BOX 83720  
BOISE ID 83720

SOURCE: SNAKE RIVER Tributary; COLUMBIA RIVER

QUANTITY: 2950.00 CFS

PRIORITY DATE: 07-29-1919

POINT OF DIVERSION: T02S R01E S18 LOT 10 (SESWSE) Within Owyhee County  
LOT 11 (NWSESE) Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	POWER	04-01 TO 10-31	2950.00 CFS
	POWER	11-01 TO 03-31	2800.00 CFS

Power generation is at the Swan Falls Dam Power Plant.

PLACE OF USE: POWER Within Ada County  
T02S R01E S18 LOT 11 (SESE)

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

1. Legal title to this water right is held in trust by the State of Idaho, by and through the Governor, for the benefit of Idaho Power Company as the user of the water for power purposes and for the benefit of the people of the State of Idaho. In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by any other water right acquired pursuant to applicable state law, unless such other water right is unlawfully exercised or depletes or will deplete the average daily flow of the Snake River below 3900 CFS from April 1 to October 31 or below 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. Idaho Power Company, as user of the water for power purposes and a beneficiary of the trust referenced above, is entitled to use the water available at the facility identified herein to the extent of its actual beneficial use but not to exceed the "QUANTITY" set forth above, and to protect its rights to such use of the water as provided by state law against depletions or claims not in accordance with state law.

4. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial

Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

~~This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 1, 1984 and who filed an application or claim for said use by June 30, 1985.~~

6. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

7. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

8. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication



subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 1, 1984 and who filed an application or claim for said use by June 30, 1985.

6. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

7. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

8. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

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

**DRAFT**

In Re SRBA )  
                  ) PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  ) Water Right 02-02056

NAME & ADDRESS: STATE OF IDAHO  
TRUSTEE  
STATEHOUSE  
PO BOX 83720  
BOISE ID 83720

SOURCE: SNAKE RIVER Tributary: COLUMBIA RIVER

QUANTITY: 1050.00 CFS

PRIORITY DATE: 04-02-1929

POINT OF DIVERSION: T10S R18E S04 LOT 2 (NWNW) Within Twin Falls County  
LOT 3 (NENW)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	POWER	01-01 TO 12-31	1050.00 CFS

Power generation is at the Twin Falls Power Plant.

PLACE OF USE: POWER Within Twin Falls County  
T10S R18E S04 LOT 3 (NENW)

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

1. Legal title to this water right is held in trust by the State of Idaho, by and through the Governor, for the benefit of Idaho Power Company as the user of the water for power purposes and for the benefit of the people of the State of Idaho. In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by any other water right acquired pursuant to applicable state law, unless such other water right is unlawfully exercised or depletes or will deplete the average daily flow of the Snake River below 3900 CFS from April 1 to October 31 or below 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. Idaho Power Company, as user of the water for power purposes and a beneficiary of the trust referenced above, is entitled to use the water available at the facility identified herein to the extent of its actual beneficial use but not to exceed the "QUANTITY" set forth above, and to protect its rights to such use of the water as provided by state law against depletions or claims not in accordance with state law.

4. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial

Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 1, 1984 and who filed an application for claim for said use by June 30, 1985.

6. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

7. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

8. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

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

DRAFT

In Re SRBA ) PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  ) Water Right 02-02065

NAME & ADDRESS: STATE OF IDAHO  
TRUSTEE  
STATEHOUSE  
PO BOX 83720  
BOISE ID 83720

SOURCE: SNAKE RIVER Tributary: COLUMBIA RIVER

QUANTITY: 3000.00 CFS

PRIORITY DATE: 12-11-1947

POINT OF DIVERSION: T06S R12E S07 LOT 10 (SWNESE) Within Elmore County  
LOT 5 (SWNESE) Within Gooding County

PURPOSE AND  
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
POWER 01-01 TO 12-31 3000.00 CFS

Power generation is at the Bliss Dam Power Plant.

PLACE OF USE: POWER Within Gooding County  
T06S R12E S07 LOT 5 (NESE)

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

1. Legal title to this water right is held in trust by the State of Idaho, by and through the Governor, for the benefit of Idaho Power Company as the user of the water for power purposes and for the benefit of the people of the State of Idaho. In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by any other water right acquired pursuant to applicable state law, unless such other water right is unlawfully exercised or depletes or will deplete the average daily flow of the Snake River below 3900 CFS from April 1 to October 31 or below 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. Idaho Power Company, as user of the water for power purposes and a beneficiary of the trust referenced above, is entitled to use the water available at the facility identified herein to the extent of its actual beneficial use but not to exceed the "QUANTITY" set forth above, and to protect its rights to such use of the water as provided by state law against depletions or claims not in accordance with state law.

4. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

5. This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 17, 1984 and who filed an application or claim for said use by June 30, 1985.

6. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

7. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

8. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

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

DRAFT

In Re SRBA ) PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  ) Water Right 02-02064

NAME & ADDRESS: STATE OF IDAHO  
TRUSTEE  
STATEHOUSE  
PO BOX 83720  
BOISE ID 83720

SOURCE: SNAKE RIVER Tributary: COLUMBIA RIVER

QUANTITY: 12000.00 CFS

PRIORITY DATE: 09-04-1947

POINT OF DIVERSION: T06S R12E S07 LOT 10 (SWNESE) Within Elmore County  
LOT 5 (SWNESE) Within Gooding County

PURPOSE AND  
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
POWER 01-01 TO 12-31 12000.00 CFS

Power generation is at the Bliss Dam Power Plant.

PLACE OF USE: POWER Within Gooding County  
T06S R12E S07 LOT 5 (NESE)

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

1. Legal title to this water right is held in trust by the State of Idaho, by and through the Governor, for the benefit of Idaho Power Company as the user of the water for power purposes and for the benefit of the people of the State of Idaho. In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by any other water right acquired pursuant to applicable state law, unless such other water right is unlawfully exercised or depletes or will deplete the average daily flow of the Snake River below 3900 CFS from April 1 to October 31 or below 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. Idaho Power Company, as user of the water for power purposes and a beneficiary of the trust referenced above, is entitled to use the water available at the facility identified herein to the extent of its actual beneficial use but not to exceed the "QUANTITY" set forth above, and to protect its rights to such use of the water as provided by state law against depletions or claims not in accordance with state law.

4. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part

of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

~~This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 1, 1984 and who filed an application or claim for said use by June 30, 1985.~~

6. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

7. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

8. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

~~DRAFT~~  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

~~DRAFT~~  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

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

**DRAFT**

In Re SRBA )  
                  ) PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  ) Water Right 02-10135

NAME & ADDRESS: STATE OF IDAHO  
TRUSTEE  
STATEHOUSE  
PO BOX 83720  
BOISE ID 83720

SOURCE: SNAKE RIVER Tributary: COLUMBIA RIVER

QUANTITY: 1100.00 CFS

PRIORITY DATE: 03-09-1950

POINT OF DIVERSION: T06S R12E S07 LOT 10 (SWNESE) Within Elmore County  
LOT 5 (SWNESE) Within Gooding County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	POWER	01-01 TO 12-31	1100.00 CFS

Power generation is at the Bliss Dam Power Plant.

PLACE OF USE: POWER Within Gooding County  
T06S R12E S07 LOT 5 (NESE)

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

1. Legal title to this water right is held in trust by the State of Idaho, by and through the Governor, for the benefit of Idaho Power Company as the user of the water for power purposes and for the benefit of the people of the State of Idaho. In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by any other water right acquired pursuant to applicable state law, unless such other water right is unlawfully exercised or depletes or will deplete the average daily flow of the Snake River below 3900 CFS from April 1 to October 31 or below 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. Idaho Power Company, as user of the water for power purposes and a beneficiary of the trust referenced above, is entitled to use the water available at the facility identified herein to the extent of its actual beneficial use but not to exceed the "QUANTITY" set forth above, and to protect its rights to such use of the water as provided by state law against depletions or claims not in accordance with state law.

4. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part

of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 25, 1984 and who filed an application or claim for said use by June 30, 1985.

6. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

7. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

8. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

DRAFT

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 ) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576 )
) Water Right 02-02060

NAME & ADDRESS: STATE OF IDAHO
TRUSTEE
STATEHOUSE
PO BOX 83720
BOISE ID 83720

SOURCE: SNAKE RIVER Tributary: COLUMBIA RIVER

QUANTITY: 14000.00 CFS

PRIORITY DATE: 08-08-1946

POINT OF DIVERSION: T07S R13E S02 LOT 7 (SESW) Within Gooding County
LOT 8 (SWSW) Within Twin Falls County

PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
POWER 01-01 TO 12-31 14000.00 CFS
Power generation is at the Lower Salmon Falls Power Plant.

PLACE OF USE: POWER Within Gooding County
T07S R13E S02 LOT 7 (SESW)

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

1. Legal title to this water right is held in trust by the State of Idaho, by and through the Governor, for the benefit of Idaho Power Company as the user of the water for power purposes and for the benefit of the people of the State of Idaho. In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by any other water right acquired pursuant to applicable state law, unless such other water right is unlawfully exercised or depletes or will deplete the average daily flow of the Snake River below 3900 CFS from April 1 to October 31 or below 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. Idaho Power Company, as user of the water for power purposes and a beneficiary of the trust referenced above, is entitled to use the water available at the facility identified herein to the extent of its actual beneficial use but not to exceed the "QUANTITY" set forth above, and to protect its rights to such use of the water as provided by state law against depletions or claims not in accordance with state law.

4. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part

of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

~~This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 17, 1984 and who filed an application or claim for said use by June 30, 1985.~~

6. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

7. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

8. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

~~DRAFT~~  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

~~DRAFT~~  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

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

DRAFT

In Re SRBA )  
                  ) PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  ) Water Right 02-02059

NAME & ADDRESS: STATE OF IDAHO  
TRUSTEE  
STATEHOUSE  
PO BOX 83720  
BOISE ID 83720

SOURCE: SNAKE RIVER Tributary: COLUMBIA RIVER

QUANTITY: 250.00 CFS

PRIORITY DATE: 03-20-1935

POINT OF DIVERSION: T07S R13E S02 LOT 7 (SESW) Within Gooding County  
LOT 8 (SWSW) Within Twin Falls County

PURPOSE AND  
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
POWER 01-01 TO 12-31 250.00 CFS

Power generation is at the Lower Salmon Falls Power Plant.

PLACE OF USE: POWER Within Gooding County  
T07S R13E S02 LOT 7 (SESW)

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

1. Legal title to this water right is held in trust by the State of Idaho, by and through the Governor, for the benefit of Idaho Power Company as the user of the water for power purposes and for the benefit of the people of the State of Idaho. In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by any other water right acquired pursuant to applicable state law, unless such other water right is unlawfully exercised or depletes or will deplete the average daily flow of the Snake River below 3900 CFS from April 1 to October 31 or below 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. Idaho Power Company, as user of the water for power purposes and a beneficiary of the trust referenced above, is entitled to use the water available at the facility identified herein to the extent of its actual beneficial use but not to exceed the "QUANTITY" set forth above, and to protect its rights to such use of the water as provided by state law against depletions or claims not in accordance with state law.

4. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial

Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

5. This water right is subordinate to the law of exercise of water rights of those persons who beneficially used water prior to October 1, 1984 and who filed an application or claim for said use by June 30, 1985.

6. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

7. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

8. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

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

DRAFT

In Re SRBA ) PARTIAL DECREE PURSUANT TO  
Case No. 39576 ) I.R.C.P. 54(b) FOR  
\_\_\_\_\_ ) Water Right 02-02001B

NAME & ADDRESS: STATE OF IDAHO  
TRUSTEE  
STATEHOUSE  
PO BOX 83720  
BOISE ID 83720

SOURCE: SNAKE RIVER Tributary: COLUMBIA RIVER

QUANTITY: 1300.00 CFS

PRIORITY DATE: 07-02-1908

POINT OF DIVERSION: T07S R13E S02 LOT 7 (SESW) Within Gooding County  
LOT 8 (SWSW) Within Twin Falls County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	POWER	01-01 TO 12-31	1300.00 CFS

Power generation is at the Lower Salmon Falls Power Plant.

PLACE OF USE: POWER Within Gooding County  
T07S R13E S02 LOT 7 (SESW)

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

1. Legal title to this water right is held in trust by the State of Idaho, by and through the Governor, for the benefit of Idaho Power Company as the user of the water for power purposes and for the benefit of the people of the State of Idaho. In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by any other water right acquired pursuant to applicable state law, unless such other water right is unlawfully exercised or depletes or will deplete the average daily flow of the Snake River below 3900 CFS from April 1 to October 31 or below 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. Idaho Power Company, as user of the water for power purposes and a beneficiary of the trust referenced above, is entitled to use the water available at the facility identified herein to the extent of its actual beneficial use but not to exceed the "QUANTITY" set forth above, and to protect its rights to such use of the water as provided by state law against depletions or claims not in accordance with state law.

4. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect

subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 21, 1984 and who filed an application or claim for said use by June 30, 1985.

6. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

7. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

8. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

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

DRAFT

In Re SRBA )  
                  ) PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  ) Water Right 02-02001A

NAME & ADDRESS: STATE OF IDAHO  
TRUSTEE  
STATEHOUSE  
PO BOX 83720  
BOISE ID 83720

SOURCE: SNAKE RIVER Tributary: COLUMBIA RIVER

QUANTITY: 1700.00 CFS

PRIORITY DATE: 05-11-1908

POINT OF DIVERSION: T07S R13E S02 LOT 7 (SESW) Within Gooding County  
LOT 8 (SWSW) Within Twin Falls County

PURPOSE AND  
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
POWER 01-01 TO 12-31 1700.00 CFS

Power generation is at the Lower Salmon Falls Power Plant.

PLACE OF USE: POWER Within Gooding County  
T07S R13E S02 LOT 7 (SESW)

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

1. Legal title to this water right is held in trust by the State of Idaho, by and through the Governor, for the benefit of Idaho Power Company as the user of the water for power purposes and for the benefit of the people of the State of Idaho. In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by any other water right acquired pursuant to applicable state law, unless such other water right is unlawfully exercised or depletes or will deplete the average daily flow of the Snake River below 3900 CFS from April 1 to October 31 or below 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. Idaho Power Company, as user of the water for power purposes and a beneficiary of the trust referenced above, is entitled to use the water available at the facility identified herein to the extent of its actual beneficial use but not to exceed the "QUANTITY" set forth above, and to protect its rights to such use of the water as provided by state law against depletions or claims not in accordance with state law.

4. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part

of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

~~This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 1, 1984 and who filed an application or claim for said use by June 30, 1985.~~

6. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

7. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

8. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

~~DRAFT~~  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

~~DRAFT~~  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

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 ) PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  ) Water Right 02-02057

*[Handwritten signature]*

NAME & ADDRESS: STATE OF IDAHO  
TRUSTEE  
STATEHOUSE  
PO BOX 83720  
BOISE ID 83720

SOURCE: SNAKE RIVER Tributary: COLUMBIA RIVER

QUANTITY: 6500.00 CFS

PRIORITY DATE: 04-02-1929

POINT OF DIVERSION: T08S R13E S02 LOT 1 (NWNE) Within Gooding County  
LOT 2 (NWNE) Within Twin Falls County

PURPOSE AND  
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
POWER 01-01 TO 12-31 6500.00 CFS

Power generation is at the Upper Salmon Falls Dam Power Plant.

PLACE OF USE: POWER Within Twin Falls County  
T08S R13E S02 LOT 4 (NWNW)  
S03 LOT 1 (NENE) LOT 3 (NWNW)

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

1. Legal title to this water right is held in trust by the State of Idaho, by and through the Governor, for the benefit of Idaho Power Company as the user of the water for power purposes and for the benefit of the people of the State of Idaho. In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by any other water right acquired pursuant to applicable state law, unless such other water right is unlawfully exercised or depletes or will deplete the average daily flow of the Snake River below 3900 CFS from April 1 to October 31 or below 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. Idaho Power Company, as user of the water for power purposes and a beneficiary of the trust referenced above, is entitled to use the water available at the facility identified herein to the extent of its actual beneficial use but not to exceed the "QUANTITY" set forth above, and to protect its rights to such use of the water as provided by state law against depletions or claims not in accordance with state law.

4. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial

Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 1, 1984 and who filed an application or claim for said use by June 30, 1985.

6. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

7. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

8. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

DRAFT

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 ) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576 )
) Water Right 37-02128

NAME & ADDRESS: STATE OF IDAHO
TRUSTEE
STATEHOUSE
PO BOX 83720
BOISE ID 83720

SOURCE: Cove Creek Tributary: Malad River
Malad River Tributary: Snake River

QUANTITY: 700.00 CFS

PRIORITY DATE: 11-25-1908

POINT OF DIVERSION: T06S R13E S25 SWSW Within Gooding County
S35 NENW
NENW (Injection)
NENW (Rediversion)

PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
POWER 01-01 TO 12-31 700.00 CFS

Power generation is at the Lower Malad Gorge Power Plant.

PLACE OF USE: POWER Within Gooding County
T06S R13E S27 LOT 2 (SWSW)

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

1. Legal title to this water right is held in trust by the State of Idaho, by and through the Governor, for the benefit of Idaho Power Company as the user of the water for power purposes and for the benefit of the people of the State of Idaho. In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by any other water right acquired pursuant to applicable state law, unless such other water right is unlawfully exercised or depletes or will deplete the average daily flow of the Snake River below 3900 CFS from April 1 to October 31 or below 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. Idaho Power Company, as user of the water for power purposes and a beneficiary of the trust referenced above, is entitled to use the water available at the facility identified herein to the extent of its actual beneficial use but not to exceed the "QUANTITY" set forth above, and to protect its rights to such use of the water as provided by state law against depletions or claims not in accordance with state law.

4. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 25, 1984 and who filed an application or claim for said use by June 30, 1985.

6. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

7. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

8. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

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 ) PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  ) Water Right 37-02472

DRAFT

NAME & ADDRESS: STATE OF IDAHO  
TRUSTEE  
STATEHOUSE  
PO BOX 83720  
BOISE ID 83720

SOURCE: Malad River Tributary: Snake River

QUANTITY: 650.00 CFS

PRIORITY DATE: 05-14-1946

POINT OF DIVERSION: T06S R13E S35 NENW Within Elmore County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	POWER	01-01 TO 12-31	650.00 CFS

Power generation is at the Lower Malad Gorge Power Plant.

PLACE OF USE: POWER Within Gooding County  
T06S R13E S27 LOT 2 (SWSW)

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

1. Legal title to this water right is held in trust by the State of Idaho, by and through the Governor, for the benefit of Idaho Power Company as the user of the water for power purposes and for the benefit of the people of the State of Idaho. In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by any other water right acquired pursuant to applicable state law, unless such other water right is unlawfully exercised or depletes or will deplete the average daily flow of the Snake River below 3900 CFS from April 1 to October 31 or below 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. Idaho Power Company, as user of the water for power purposes and a beneficiary of the trust referenced above, is entitled to use the water available at the facility identified herein to the extent of its actual beneficial use but not to exceed the "QUANTITY" set forth above, and to protect its rights to such use of the water as provided by state law against depletions or claims not in accordance with state law.

4. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part

of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 25, 1984, and who filed an application or claim for said use by June 30, 1985.

6. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

7. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

8. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

**DRAFT**

JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

**DRAFT**

JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

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

DRAFT

In Re SRBA ) PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  ) Water Right 37-02471

NAME & ADDRESS: STATE OF IDAHO  
TRUSTEE  
STATEHOUSE  
PO BOX 83720  
BOISE ID 83720

SOURCE: Cove Creek Tributary: Malad River  
Malad River Tributary: Snake River

QUANTITY: 900.00 CFS

PRIORITY DATE: 05-14-1946

POINT OF DIVERSION: T06S R13E S25 WSW Within Gooding County  
T06S R13E S36 NWN

PURPOSE AND  
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
POWER 01-01 TO 12-31 900.00 CFS

Power generation is at the Upper Malad Gorge Power Plant.

PLACE OF USE: POWER Within Gooding County  
T06S R13E S35 NENW

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

1. Legal title to this water right is held in trust by the State of Idaho, by and through the Governor, for the benefit of Idaho Power Company as the user of the water for power purposes and for the benefit of the people of the State of Idaho. In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by any other water right acquired pursuant to applicable state law, unless such other water right is unlawfully exercised or depletes or will deplete the average daily flow of the Snake River below 3900 CFS from April 1 to October 31 or below 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. Idaho Power Company, as user of the water for power purposes and a beneficiary of the trust referenced above, is entitled to use the water available at the facility identified herein to the extent of its actual beneficial use but not to exceed the "QUANTITY" set forth above, and to protect its rights to such use of the water as provided by state law against depletions or claims not in accordance with state law.

4. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

5. This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 1, 1984 and who filed an application or claim for said use by June 30, 1985.

6. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

7. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

8. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

~~DRAFT~~  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

~~DRAFT~~  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

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

DRAFT

In Re SRBA )  
                  ) PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  ) Water Right 37-20710

NAME & ADDRESS: STATE OF IDAHO  
TRUSTEE  
STATEHOUSE  
PO BOX 83720  
BOISE ID 83720

SOURCE: Malad River Tributary: Snake River

QUANTITY: 150.00 CFS

PRIORITY DATE: 05/24/1950

POINT OF DIVERSION: T06S R13E S35 NENW Within Gooding County

PURPOSE AND  
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
POWER 01-01 TO 12-31 150.00 CFS

Power generation is at the Lower Malad Gorge Power Plant.

PLACE OF USE: POWER Within Gooding County  
T06S R13E S27 LOT 2 (SESW)

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

1. Legal title to this water right is held in trust by the State of Idaho, by and through the Governor, for the benefit of Idaho Power Company as the user of the water for power purposes and for the benefit of the people of the State of Idaho. In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by any other water right acquired pursuant to applicable state law, unless such other water right is unlawfully exercised or depletes or will deplete the average daily flow of the Snake River below 3900 CFS from April 1 to October 31 or below 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. Idaho Power Company, as user of the water for power purposes and a beneficiary of the trust referenced above, is entitled to use the water available at the facility identified herein to the extent of its actual beneficial use but not to exceed the "QUANTITY" set forth above, and to protect its rights to such use of the water as provided by state law against depletions or claims not in accordance with state law.

4. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect

subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 17, 1984 and who filed an application or claim for said use by June 30, 1988.

6. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

7. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

8. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

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 )  
                  ) PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  ) Water Right 37-20709

DRAFT

NAME & ADDRESS: STATE OF IDAHO  
TRUSTEE  
STATEHOUSE  
PO BOX 83720  
BOISE ID 83720

SOURCE: Cove Creek Tributary: Malad River  
Malad River Tributary: Snake River

QUANTITY: 100.00 CFS

PRIORITY DATE: 06-14-1948

POINT OF DIVERSION: T06S R13E S25 SWSW Within Gooding County  
T06S R13E S36 NWNW

PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
POWER 01-01 TO 12-31 100.00 CFS

Power generation is at the Upper Malad Gorge Power Plant.

PLACE OF USE: POWER Within Gooding County  
T06S R13E S35 NENW

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

1. Legal title to this water right is held in trust by the State of Idaho, by and through the Governor, for the benefit of Idaho Power Company as the user of the water for power purposes and for the benefit of the people of the State of Idaho. In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by any other water right acquired pursuant to applicable state law, unless such other water right is unlawfully exercised or depletes or will deplete the average daily flow of the Snake River below 3900 CFS from April 1 to October 31 or below 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. Idaho Power Company, as user of the water for power purposes and a beneficiary of the trust referenced above, is entitled to use the water available at the facility identified herein to the extent of its actual beneficial use but not to exceed the "QUANTITY" set forth above, and to protect its rights to such use of the water as provided by state law against depletions or claims not in accordance with state law.

4. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 1, 1984 and who filed an application or claim for said use by June 30, 1985.

6. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

7. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

8. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

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

DRAFT

In Re SRBA )  
                  ) AMENDED PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  ) Water Right 36-02013

NAME & ADDRESS: STATE OF IDAHO  
TRUSTEE  
STATEHOUSE  
PO BOX 83720  
BOISE ID 83720

SOURCE: Thousand Springs Tributary: Snake River  
Snow Bank Spring Tributary: Snake River

QUANTITY: 600.00 CFS

PRIORITY DATE: 11-20-1912

POINT OF DIVERSION: T08S R14E S08 SWNWSE Within Gooding County  
NESWSE  
NWSWSE  
SESWSE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	POWER	01-01 TO 12-31	600.00 CFS

PLACE OF USE: POWER Within Gooding County  
T08S R14E S08 Lot 3 (NESW)

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

1. Legal title to this water right is held in trust by the State of Idaho, by and through the Governor, for the benefit of Idaho Power Company as the user of the water for power purposes and for the benefit of the people of the State of Idaho. In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by any other water right acquired pursuant to applicable state law, unless such other water right is unlawfully exercised or depletes or will deplete the average daily flow of the Snake River below 3900 CFS from April 1 to October 31 or below 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. Idaho Power Company, as user of the water for power purposes and a beneficiary of the trust referenced above, is entitled to use the water available at the facility identified herein to the extent of its actual beneficial use but not to exceed the "QUANTITY" set forth above, and to protect its rights to such use of the water as provided by state law against depletions or claims not in accordance with state law.

4. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

~~This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 1, 1984 and who filed an application or claim for said use by June 30, 1985.~~

6. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

7. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

8. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

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

DRAFT

In Re SRBA )  
                  )        AMENDED PARTIAL DECREE PURSUANT TO  
                  )        I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  )        Water Right 36-02018

NAME & ADDRESS:        STATE OF IDAHO  
                          TRUSTEE  
                          STATEHOUSE  
                          PO BOX 83720  
                          BOISE ID 83720

SOURCE:                Clear Lake        Tributary: Snake River

QUANTITY:              526.00 CFS

PRIORITY DATE:        01-18-1919

POINT OF DIVERSION:   T09S R14E S02 LOT 7 (NESWSE) Within Gooding County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	POWER	01-01 TO 12-31	526.00 CFS

PLACE OF USE:        POWER                        Within Gooding County  
                          T09S R14E S02 LOT 7        (SWSE)

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

1. Legal title to this water right is held in trust by the State of Idaho, by and through the Governor, for the benefit of Idaho Power Company as the user of the water for power purposes and for the benefit of the people of the State of Idaho. In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by any other water right acquired pursuant to applicable state law, unless such other water right is unlawfully exercised or depletes or will deplete the average daily flow of the Snake River below 3900 CFS from April 1 to October 31 or below 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. Idaho Power Company, as user of the water for power purposes and a beneficiary of the trust referenced above, is entitled to use the water available at the facility identified herein to the extent of its actual beneficial use but not to exceed the "QUANTITY" set forth above, and to protect its rights to such use of the water as provided by state law against depletions or claims not in accordance with state law.

4. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 1, 1984, and who filed an application or claim for said use by June 30, 1985.

6. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

7. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

8. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

**DRAFT**  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

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

**DRAFT**

In Re SRBA )  
                  )     AMENDED PARTIAL DECREE PURSUANT TO  
                  )     I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  )     Water Right 36-02026

NAME & ADDRESS:     STATE OF IDAHO  
                          TRUSTEE  
                          STATEHOUSE  
                          PO BOX 83720  
                          BOISE ID 83720

SOURCE:             Sand Springs Creek     Tributary: Snake River

QUANTITY:           100.00 CFS

PRIORITY DATE:      05-01-1916

POINT OF DIVERSION: T08S R14E S17     SENWSE     Within Gooding County

PURPOSE AND  
PERIOD OF USE:       PURPOSE OF USE           PERIOD OF USE           QUANTITY  
                          POWER                       01-01 TO 12-31           100.00 CFS

PLACE OF USE:       POWER                       Within Gooding County  
                          T08S R14E S08 LOT 3     (NESW)

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

1. Legal title to this water right is held in trust by the State of Idaho, by and through the Governor, for the benefit of Idaho Power Company as the user of the water for power purposes and for the benefit of the people of the State of Idaho. In addition to the subordination to the water rights defined in paragraph nos. 4 and 5 below, this water right shall be subject to subordination to and depletion by any other water right acquired pursuant to applicable state law, unless such other water right is unlawfully exercised or depletes or will deplete the average daily flow of the Snake River below 3900 CFS from April 1 to October 31 or below 5600 CFS from November 1 to March 31 as measured at the "Murphy Gaging Station" described below in paragraph no. 2. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities. Fluctuations resulting from Idaho Power's operations are the sole exclusion to the rule that all flows actually present at the Murphy Gaging Station constitute actual flow conditions. Flows of water purchased, leased, owned or otherwise acquired by other entities are not considered fluctuations.

2. The "Murphy Gaging Station" is located at latitude 43 degrees 17 minutes 31 seconds, longitude 116 degrees 25 minutes 12 seconds, in T01S R01W, S35, NWNESE, Boise Meridian, Ada County Hydrologic Unit 17050103, on the right bank 4.2 miles downstream from Swan Falls Power Plant, 7.5 miles NE of Murphy, Idaho at river mile 453.5.

3. Idaho Power Company, as user of the water for power purposes and a beneficiary of the trust referenced above, is entitled to use the water available at the facility identified herein to the extent of its actual beneficial use but not to exceed the "QUANTITY" set forth above, and to protect its rights to such use of the water as provided by state law against depletions or claims not in accordance with state law.

4. This water right is subordinate to the lawful exercise of water rights of those persons dismissed from Idaho Power Co. v. State of Idaho, Case No. 81375 (Fourth Judicial Dist. Feb. 16, 1990). (A list of the original dismissed water right holders is made part of the record in SRBA Consolidated Subcase No. 00-92023. The list does not reflect subsequent changes to the original water rights resulting from transfers, splits and renumbering.)

This water right is subordinate to the lawful exercise of water rights of those persons who beneficially used water prior to October 1, 1984 and who filed an application or claim for said use by June 30, 1985.

6. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

7. This partial decree is consistent with the Swan Falls Agreement dated October 25, 1984, the Contract to Implement Chapter 259, Sess. Laws, 1983 dated October 25, 1984 and the Consent Judgments entered in Ada County Civil Cases Nos. 62237 (Mar. 9, 1990) and 81375 (Feb. 16, 1990). The Swan Falls Agreement dated October 25, 1984, shall not be merged into nor integrated with this partial decree, but shall remain in full force and effect independent of this partial decree.

8. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

~~DRAFT~~  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

~~DRAFT~~  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER ON MOTIONS FOR RECONSIDERATION; ORDER ON CONSOLIDATING ORDER PARTIALLY DECREETING; & ORDER DISMISSING was mailed on March 26, 2010, with sufficient first-class postage to the following:

IDAHO POWER COMPANY

Represented by:  
ADAM T DEVOE  
BROWNSTEIN HYATT & FARBER PC  
410 17TH STREET, 22ND FL  
DENVER, CO 80202  
Phone: 303-223-1100

ABERDEEN AMERICAN FALLS  
BINGHAM GROUND WATER DISTRICT  
BONNEVILLE-JEFFERSON GROUND  
CLARK JEFFERSON GROUND WATER  
MADISON GROUND WATER DISTRICT  
MAGIC VALLEY GROUND WATER  
NORTH SNAKE GROUND WATER

Represented by:  
CANDICE MC HUGH  
101 S CAPITOL BLVD, STE 208  
BOISE, ID 83702  
Phone: 208-395-0011

STATE OF IDAHO

Represented by:  
CLIVE STRONG  
NATURAL RESOURCES  
DEP AG OFFICE OF ATTY GEN  
STATEHOUSE MAIL  
BOISE, ID 83720-0010  
Phone: 208-334-2400

BASIN RANGE AND RESOURCE  
INTERESTED WATER USERS  
JEFF & JACKIE HARPER

Represented by:  
DANA L. HOFSTETTER  
608 WEST FRANKLIN STREET  
BOISE, ID 83702  
Phone: 208-424-7800

IDAHO POWER COMPANY

Represented by:  
JAMES C TUCKER  
IDAHO POWER CO  
1221 WEST IDAHO STREET  
BOISE, ID 83702-5627  
Phone: 208-388-2112

IDAHO POWER COMPANY

Represented by:  
JAMES S LOCHHEAD  
BROWNSTEIN HYATT ET AL  
410 17TH STREET, SUITE 2200  
DENVER, CO 80202  
Phone: 303-223-1100

BURGESS CANAL  
EGIN BENCH CANALS INC  
ENTERPRISE IRRIGATION DISTRICT  
FREMONT-MADISON IRR DIST  
HARRISON CANAL  
IDAHO IRRIGATION DISTRICT  
NEW SWEDEN IRRIGATION DIST  
NEW SWEDEN IRRIGATION DISTRICT  
NORTH FREMONT CANAL SYSTEMS  
PEOPLES CANAL & IRRIGATION  
PROGRESSIVE IRRIGATION DIST  
SNAKE RIVER VALLEY IRRIGATION  
THE UNITED CANAL COMPANY

Represented by:  
JERRY R. RIGBY  
25 N 2ND E  
PO BOX 250  
REXBURG, ID 83440-0250  
Phone: 208-356-3633

CLEAR SPRINGS FOOD, INC.  
IDAHO POWER COMPANY

Represented by:  
JOHN K SIMPSON  
1010 W JEFFERSON, STE 102  
PO BOX 2139  
BOISE, ID 83701-2139  
Phone: 208-336-0700

CITY OF POCATELLO  
GARY & HELEN DEMOSS

Represented by:  
JOSEPHINE P BEEMAN  
409 W JEFFERSON ST  
BOISE, ID 83702  
Phone: 208-331-0950

ORDER

(Certificate of mailing continued)

IDAHO POWER COMPANY

Represented by:  
MARK J MATHEWS  
BROWNSTEIN HYATT ET AL  
410 17TH STREET, SUITE 2200  
DENVER, CO 80202  
Phone: 303-223-1100

LAND & WATER FUND OF THE

Represented by:  
MC QUAID BEDFORD & VAN ZANDT  
PO BOX 2187  
SONOMA, CA 95475-2187

IDAHO POWER COMPANY

Represented by:  
MICHAEL A GHELETA  
BROWNSTEIN HYATT ET AL  
410 17TH STREET, SUITE 2200  
DENVER, CO 80202  
Phone: 303-223-1100

FAULKNER LAND & LIVESTOCK CO,  
NORTH SNAKE GROUND WATER

Represented by:  
MICHAEL C CREAMER  
601 W BANNOCK ST  
PO BOX 2720  
BOISE, ID 83701-2720  
Phone: 208-388-1200

IDAHO POWER COMPANY

Represented by:  
MICHELLE C. KALES  
BROWNSTEIN HYATT ET AL  
410 17TH STREET, SUITE 2200  
DENVER, CO 80202  
Phone: 303-223-1100

STATE OF IDAHO

Represented by:  
NATURAL RESOURCES DIV CHIEF  
STATE OF IDAHO  
ATTORNEY GENERAL'S OFFICE  
PO BOX 44449  
BOISE, ID 83711-4449

ABERDEEN AMERICAN FALLS  
BINGHAM GROUND WATER DISTRICT  
BONNEVILLE-JEFFERSON GROUND  
CLARK JEFFERSON GROUND WATER  
IDAHO GROUND WATER  
MADISON GROUND WATER DISTRICT  
MAGIC VALLEY GROUND WATER  
NORTH SNAKE GROUND WATER

Represented by:  
RANDALL C BUDGE  
201 E CENTER, STE A2  
PO BOX 1391  
POCATELLO, ID 83204-1391  
Phone: 208-232-6101

IDAHO POWER COMPANY

Represented by:  
SHELLEY M DAVIS  
1010 W JEFFERSON, STE 102  
PO BOX 2139  
BOISE, ID 83701-2139  
Phone: 208-336-0700

USDI BLM

Represented by:  
US DEPARTMENT OF JUSTICE  
ENVIRONMENT & NATL' RESOURCES  
550 WEST FORT STREET, MSC 033  
BOISE, ID 83724

IDAHO POWER PETITION FOR  
DECLARATORY & INJUNCTIVE  
RELIEF

DIRECTOR OF IDWR  
PO BOX 83720  
BOISE, ID 83720-0098

TO WHAT EXTENT IF ANY SHOULD  
THE SWAN FALLS AGREEMENT BE  
ADDRESSED IN THE SRBA OR BE  
MEMORIALIZED IN A DECREE

ORDER

Page 2 3/26/10

FILE COPY FOR 00135

Deputy Clerk

