

**IN THE SUPREME COURT OF THE STATE OF IDAHO**  
Supreme Court Docket No. 44746-2017



---

**IN THE MATTER OF ACCOUNTING FOR DISTRIBUTION OF WATER TO THE  
FEDERAL ON-STREAM RESERVOIRS IN WATER DISTRICT 63**

---

BALLENTYNE DITCH COMPANY; BOISE VALLEY IRRIGATION DITCH COMPANY;  
CANYON COUNTY WATER COMPANY; EUREKA WATER COMPANY; FARMERS' CO-  
OPERATIVE DITCH COMPANY; MIDDLETON MILL DITCH COMPANY; MIDDLETON  
IRRIGATION ASSOCIATION, INC.; NAMPA & MERIDIAN IRRIGATION DISTRICT;  
NEW DRY CREEK DITCH COMPANY; PIONEER DITCH COMPANY; PIONEER  
IRRIGATION DISTRICT; SETTLERS IRRIGATION DISTRICT; SOUTH BOISE WATER  
COMPANY; and THURMAN MILL DITCH COMPANY

Petitioners-Respondents,

v.

BOISE PROJECT BOARD OF CONTROL, and NEW YORK IRRIGATION DISTRICT,

Petitioners-Respondents,

v.

THE IDAHO DEPARTMENT OF WATER RESOURCES and GARY SPACKMAN, in his  
capacity as the Director of the Idaho Department of Water Resources,

Respondents-Appellants,

and

SUEZ WATER IDAHO, INC.,

Intervenor-Respondent.

---

**ADDENDUM TO IDWR APPELLANTS' REPLY BRIEF**

Judicial Review from the Idaho Department of Water Resources  
Honorable Eric J. Wildman, District Judge, Presiding  
Ada County District Court Case No. CV-WA-2015-21376  
(Consolidated Ada County Case No. CV-WA-2015-21391)

---

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

Supreme Court Docket No. 44746-2017

---

**IN THE MATTER OF ACCOUNTING FOR DISTRIBUTION OF WATER TO THE  
FEDERAL ON-STREAM RESERVOIRS IN WATER DISTRICT 63**

---

BALLENTYNE DITCH COMPANY; BOISE VALLEY IRRIGATION DITCH COMPANY;  
CANYON COUNTY WATER COMPANY; EUREKA WATER COMPANY; FARMERS' CO-  
OPERATIVE DITCH COMPANY; MIDDLETON MILL DITCH COMPANY; MIDDLETON  
IRRIGATION ASSOCIATION, INC.; NAMPA & MERIDIAN IRRIGATION DISTRICT;  
NEW DRY CREEK DITCH COMPANY; PIONEER DITCH COMPANY; PIONEER  
IRRIGATION DISTRICT; SETTLERS IRRIGATION DISTRICT; SOUTH BOISE WATER  
COMPANY; and THURMAN MILL DITCH COMPANY

Petitioners-Respondents,

v.

BOISE PROJECT BOARD OF CONTROL, and NEW YORK IRRIGATION DISTRICT,

Petitioners-Respondents,

v.

THE IDAHO DEPARTMENT OF WATER RESOURCES and GARY SPACKMAN, in his  
capacity as the Director of the Idaho Department of Water Resources,

Respondents-Appellants,

and

SUEZ WATER IDAHO, INC.,

Intervenor-Respondent.

---

**ADDENDUM TO IDWR APPELLANTS' REPLY BRIEF**

Judicial Review from the Idaho Department of Water Resources  
Honorable Eric J. Wildman, District Judge, Presiding  
Ada County District Court Case No. CV-WA-2015-21376  
(Consolidated Ada County Case No. CV-WA-2015-21391)

---



# **ADDENDUM TO IDWR APPELLANTS' REPLY BRIEF**

**Filed on September 8, 2017**

- Tab 1:** Water Right License Nos. 96-02984 and 96-09285
- Tab 2:** *Order Granting State of Idaho's Motion for Interim Administration of Decreed Surface Water Rights in Basin 63*, dated February 22, 2011
- Tab 3:** *Final Unified Decree*, dated August 26, 2014
- Tab 4:** *Order Regarding Subcases Pending Upon Entry of Final Unified Decree*, dated August 26, 2014
- Tab 5:** *Order Denying Motion for I.R.C.P. 54(b) Certificate*, dated January 6, 2017
- Tab 6:** Director's Report, dated December 30, 2013
- Tab 7:** *Status Report* (with Basin 1 settlement Stipulation attached), dated June, 3, 2016
- Tab 8:** Water Right Application for Permit No. 63-34403 (Cat Creek), dated May 17, 2017

State of Idaho  
Department of Water Resources

Amended

Water Right License

Amended

WATER RIGHT NO. 96-09284

Priority: May 31, 2006

Maximum Diversion Volume: 0.1 AF

It is hereby certified that CATHERINE PHANEUF  
And/Or DEAN PHANEUF  
1433 CEDAR HILL DR  
RIVERSIDE CA 92507

has complied with the terms and

conditions of the permit, issued pursuant to Application for Permit dated May 26, 2006; and has submitted Proof of Beneficial Use on July 06, 2007. An examination indicates that the works have a storage capacity of 0.24 AF of water from:

**SOURCE**

UNNAMED STREAM

Tributary: JOHNSON CREEK

and a water right has been established as follows:

**BENEFICIAL USE**

**PERIOD OF USE**

**ANNUAL  
DIVERSION VOLUME**

FLOOD CONTROL STORAGE 01/01 to 12/31  
WILDLIFE STORAGE 01/01 to 12/31

0.1 AF  
0.1 AF

**LOCATION OF POINT(S) OF DIVERSION:**

UNNAMED STREAM NW $\frac{1}{4}$ NW $\frac{1}{4}$  Sec. 28, Twp 57N, Rge 03W, B.M. BONNER County

**PLACE OF USE:** FLOOD CONTROL STORAGE and WILDLIFE STORAGE

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
57N 03W 28						X											

**CONDITIONS OF APPROVAL**

1. Wildlife storage and flood protection storage uses are for a pond.
2. Use of water under this right shall be non-consumptive.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed and sealed this 26<sup>th</sup> day of January, 2009.

*David R. Tuthill, Jr.*  
DAVID R. TUTHILL, JR.  
Director



State of Idaho  
Department of Water Resources  
**Water Right License**

WATER RIGHT NO. 96-09285

Priority: May 31, 2006

Maximum Diversion Volume: 0.1 AF

It is hereby certified that HUNTER HORVATH  
And/Or PHYLLIS HORVATH  
113 "B" EUCLID AVE  
SANDPOINT ID 83864

has complied with the terms and  
conditions of the permit, issued pursuant to Application for Permit dated May 26, 2006; and has  
submitted Proof of Beneficial Use on July 06, 2007. An examination indicates that the works have a  
storage capacity of 0.3 AF of water from:

**SOURCE**

UNNAMED STREAM

Tributary: JOHNSON CREEK

and a water right has been established as follows:

**BENEFICIAL USE**

**PERIOD OF USE**

**ANNUAL  
DIVERSION VOLUME**

FIRE PROTECTION

01/01 to 12/31

0.1 AF

STORAGE

FLOOD CONTROL STORAGE 01/01 to 12/31

0.1 AF

**LOCATION OF POINT(S) OF DIVERSION:**

UNNAMED STREAM NW¼NW¼ Sec. 28, Twp 57N, Rge 03W, B.M. BONNER County

**PLACE OF USE:** FIRE PROTECTION STORAGE and FLOOD CONTROL STORAGE

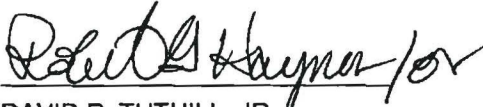
Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
57N	03W	28						X											

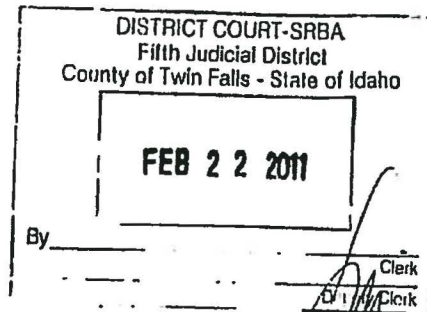
**CONDITIONS OF APPROVAL**

1. Fire protection storage and flood protection storage uses are for a pond.
2. Water shall not be diverted from storage for fire protection use under this right except to fight or repel an existing fire.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed and sealed this 6<sup>th</sup> day of January, 2009.

  
DAVID R. TUTHILL, JR.  
Director



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

In Re SRBA

Case No. 39576

) Subcase No.: 00-92021-63

) (Interim Administration)

)

) ORDER GRANTING STATE OF IDAHO'S

) MOTION FOR ORDER OF INTERIM

) ADMINISTRATION OF DECREED

) SURFACE WATER RIGHTS IN BASIN 63

)

)

I.

PROCEDURAL BACKGROUND

1. On December 19, 2006, the Idaho Department of Water Resources (IDWR) filed its *Director's Report for Irrigation and Other Uses* ("Director's Report"), IDWR Basin 63, Part III with the SRBA District Court.<sup>1</sup>

2. On January 4, 2011, the State of Idaho filed a *Motion for Interim Administration of Surface Water Rights in Basin 63* ("Motion"); *Brief In Support of Motion for Interim Administration of Surface Rights in Basin 63* and the *Affidavit of Timothy J. Luke In Support of Motion for Order of Interim Administration*.

<sup>1</sup> The *Director's Reports* for Basin 63 irrigation and other rights were issued in a series of three parts, the final part in the series being Part III.



3. On January 12, 2011, a *Certificate of Service* evidencing service of the State's *Motion* and related documents on those claimants in IDWR Basin 63 reasonably determined to be adversely affected by the entry of the requested *Order*.

4. A hearing was held on the State's *Motion* on February 15, 2011. Although objections were filed in response to the State's Motion all concerns raised in the objections were addressed and resolved at the hearing to the satisfaction of the objector.

## II. LEGAL STANDARDS FOR INTERIM ADMINISTRATION

1. Idaho Code § 42-1417 authorizes the district court to order interim administration of water rights and provides, in part, as follows:

- (1) The district court may permit the distribution of water pursuant to chapter 6, title 42, Idaho:
  - (a) in accordance with the director's report or as modified by the court's order;
  - (b) in accordance with applicable partial decree(s) for water rights acquired under state law;
  - (c) in accordance with applicable partial decree(s) for water right established under federal law.
- (2) The district court may enter the order only:
  - (a) upon motion by a party;
  - (b) **after notice by the moving party by mail to the director and each claimant from the water system or portion there of that could reasonably be determined be adversely affected by entry of the order; and**
  - (c) **upon a determination by the court, after hearing, that the interim administration of water rights in accordance with the report, or as the report is modified by the court's order, and in accordance with any partial decree(s), is reasonably necessary to protect senior water rights.**

Idaho Code § 42-1417(1996) (emphasis added).

2. Idaho Code § 42-1417 therefore requires the district court to make the following determination: (1) a party filed a motion for interim administration. (2) the moving party served

by mail each claimant that could reasonably be determined to be adversely affected, (3) interim administration is reasonably necessary to protect senior water rights, and (4) the water rights should be administered in accordance with the director's report, as modified by the district court, or in accordance with partial decrees that supercede the *Director's Report*.

### III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court having heard the motion and reviewed the pleadings, makes the following findings of fact and conclusions of law.

1. The State of Idaho satisfied the notice and service requirements of Idaho Code § 42-1417(2)(b) by serving the State's *Motion* and related documents on those claimants in IDWR Basin 63 reasonably determined to be adversely affected by the entry of the requested *Order*.

2. Interim administration of surface water rights in IDWR Basin 63 in accordance with the *Partial Decrees* for water rights is reasonably necessary to efficiently administer water rights and to protect senior water rights.

3. Basin 63 is a nearly completed basin. At present, surface rights in much of the basin are being administered according to historic decrees and water right records. SRBA *Partial Decrees* reflect the most accurate and up-to-date records of water rights in Basin 63. Therefore the Court finds it appropriate for such rights to be distributed according to the *Partial Decrees*.

4. The inclusion of decreed water rights into existing water districts in Basin 63 will provide current watermasters with the ability to administer, regulate and enforce water rights in accordance with the *Partial Decrees* issued in the SRBA.



**IV.  
ORDER**

Based on the foregoing, and pursuant to Idaho Code § 42-1417, the State of Idaho's *Motion for Order of Interim Administration of Surface Water Rights in Basin 63*, for which *Partial Decrees* have been issued in the SRBA, is hereby **granted**. The Court authorizes the distribution of surface water pursuant to chapter 6, title 42, Idaho Code in accordance with the *Partial Decrees* that supercede the *Director's Reports* in Basin 63.

IT IS SO ORDERED.

Dated: February 22, 2011.



ERIC J. WILDMAN  
Presiding Judge  
Snake River Basin Adjudication

**CERTIFICATE OF MAILING**

I hereby certify that true and correct copies of the **ORDER GRANTING STATE OF IDAHO'S MOTION FOR ORDER OF INTERIM ADMINISTRATION OF DECREED SURFACE WATER RIGHTS IN BASIN 63** were mailed on February 22, 2011, by first-class mail to the following:

DIRECTOR OF IDWR  
PO Box 83720  
Boise, ID 83720-0098

State of Idaho  
Chief Natural Resources Division  
Office of the Attorney General  
PO Box 44449  
Boise, ID 83711-4449

  
\_\_\_\_\_  
Julie Murphy  
Deputy Clerk



ORIGINAL

IDWR Document Depository  
PO Box 83720  
Boise, ID 83720-0098

Chief Natural Resources Division  
Office of the Attorney General  
PO Box 44449  
Boise, ID 83711-4449

United States Department of Justice  
Environment & Natural Resources Div.  
550 West Fort Street, MSC 033  
Boise, ID 83724

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
AUG 26 2014	
By _____	Clerk
_____	Deputy Clerk

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

FINAL UNIFIED DECREE

### I. PROCEDURE

On June 17, 1987, the State of Idaho, ex rel. A. Kenneth Dunn in his official capacity as Director of the Idaho Department of Water Resources, filed a petition in the above-entitled Court seeking commencement of a "general adjudication inter se of all rights arising under state or federal law to the use of surface and ground waters from the Snake River basin water system and for the administration of such rights." *Petition* at 2. On November 19, 1987, this Court issued its *Commencement Order* thereby initiating the above-entitled general stream adjudication of all rights to the use of the waters of the Snake River Basin within the State of

Idaho pursuant to Idaho Code § 42-1406A (Supp. 1987).<sup>1</sup> The *Commencement Order* adopted by reference this Court's October 14, 1987, *Memorandum Opinion on Commencement of Adjudication* as "further findings of fact and further conclusions of law as permitted by I.R.C.P. 52(a)." *Commencement Order* at 4.

As set forth in the *Memorandum Opinion on Commencement of Adjudication*, Idaho Code § 42-1406A (Supp. 1987) required that the adjudication be commenced within the terms of the McCarran Amendment, 43 U.S.C. § 666. This Court determined that for the adjudication to come within the terms of the McCarran Amendment the entire Snake River Basin water system within the State of Idaho had to be adjudicated. This Court defined the entire Snake River Basin water system within Idaho as follows:

Beginning at the point where the southern boundary line of the state of Idaho meets the western boundary line of the state of Idaho, then following the western boundary of the state north to the northern boundary of the Clearwater Basin, in Idaho, in section 36, T. 36 N., R. 6 W., B.M., then following the northern watershed divide of the Clearwater River Basin north and east to the eastern boundary of the state of Idaho in section 4, T. 42 N., R. 11 E., B.M., then following the eastern boundary of the state southeast to the northern boundary of the Bear River Basin in section 35, T. 10 S., R. 46 E., B.M., then following the northern watershed divide of the Bear River Basin, in Idaho, southwest to the southern boundary of the state of Idaho in section 26, T. 16 S., R. 28 E., B.M., then following the southern boundary line of the state of Idaho west to the point of beginning.

*Commencement Order* at 5. A map showing the boundaries of the Snake River Basin water system is attached for illustrative purposes as Attachment 1, as required by Idaho Code § 42-1413 (2003). The following counties are wholly located within the boundaries of the Snake River Basin water system:

Ada	Canyon	Idaho	Owyhee
Adams	Clark	Jefferson	Payette

---

<sup>1</sup> Idaho Code § 42-1406A was added by section 1 of chapter 18, 1985 Idaho Sess. L. at 28. Section 42-1406A was subsequently amended by section 11 of chapter 454, 1994 Idaho Sess. L. at 1452-53, and now appears as an uncodified law in the 1994 Idaho Session Laws.

Bingham	Clearwater	Jerome	Teton
Blaine	Custer	Lemhi	Twin Falls
Boise	Elmore	Lewis	Valley
Bonneville	Fremont	Lincoln	Washington
Butte	Gem	Madison	
Camas	Gooding	Minidoka	

*Commencement Order* at 5. The following counties are partly located within the boundaries of the Snake River Basin water system:

Bannock	Nez Perce
Caribou	Oneida
Cassia	Power
Latah	Shoshone

*Id.* at 6.

The *Commencement Order* also determined that “all classes of water uses . . . within the water system [must] be adjudicated as part of the Snake River Basin adjudication.” *Id.* At 6. On January 17, 1989, however, this Court entered its *Findings of Fact, Conclusions of Law, and Order Establishing Procedures for Adjudication of Domestic and Stock Water Uses* that allowed claimants of *de minimis* domestic and stock water rights, as defined in Idaho Code § 42-1401A(5) and (12) (Supp. 1988), to elect to defer adjudication of their claims; provided, all such claimants “shall be joined as parties in this proceeding and will be bound by all decrees entered in this case, including the final decree.” *Findings of Fact* at 3.

The *Commencement Order* directed the Director of the Idaho Department of Water Resources (“Director”): 1) to investigate the water system as provided in Idaho Code § 42-1410 (Supp. 1987); 2) to prepare the notice of order commencing a general adjudication containing that information required by Idaho Code § 42-1408A(1) (Supp. 1987); 3) to serve notice of the order commencing a general adjudication in accordance with chapter 14, title 42, Idaho Code; and 4) to file with this Court affidavits and other documents stating the



persons served with a notice of order commencing the adjudication. *Commencement Order* at 7-8.

Based upon the claims submitted; the files and records of the Idaho Department of Water Resources and the Court; the examination of the ditches, diversions, lands irrigated, and other uses of water within the water system; the Director's Reports and evidence herein, this Court enters the following findings of fact and conclusions of law:

## II. FINDINGS OF FACT

1. All requirements for joinder of the United States as a party under state and federal law, including but not limited to 43 U.S.C. § 666, have been satisfied.
2. The Nez Perce Tribe participated in this proceeding by filing notices of claim for water rights reserved under federal law and by filing a general notice of appearance with the Court. *Notice of Claim to a Water Right Reserved Under Federal Law* (filed with Dept. of Water Res. March 25, 1993); *Notice of Appearance* (March 18, 1993).
3. The Northwestern Band of the Shoshoni Nation participated in this proceeding by filing notices of claim for water rights reserved under federal law and by filing a general notice of appearance with the Court. *Partial Protective Filing by the Northwestern Band of the Shoshoni Nation of Notices of Claim for Water Rights Reserved Under Federal Law* (filed with Dept. of Water Res. March 25, 1993); *Notice of Appearance on Behalf of the Northwestern Band of the Shoshoni Nation* (March 22, 1993).
4. The Shoshone-Bannock Tribes sought and were granted intervention in this proceeding. *Order Granting Permissive Intervention by the Shoshone-Bannock Tribes* (April 12, 1993).

5. The Shoshone-Paiute Tribes of the Duck Valley Indian Reservation sought and were granted intervention in this proceeding. *Motion to Intervene and Request for Expedited Hearing* (SRBA Consolidated Subcase No. 51-12756, Jan. 12, 1999); *Order Granting Tribes' Motion to Intervene, Order Requiring Written Status Reports and Order for Scheduling Conference Reports* (SRBA Subcases Nos. 51-12756 et al., Dec. 6, 1999).

6. The Director served notice of the commencement of the Snake River Basin Adjudication ("SRBA") in accordance with chapter 14, title 42, Idaho Code and the orders of this Court. This included service of the notice of commencement on the State of Idaho and the United States; service of the notice of commencement on all other persons by publication; service of the notice of commencement by posting in each county courthouse, county recorder's office and county assessor's office in which any part of the water system is located; service of the notice of commencement by mail on each person listed as owning real property on the real property assessment roll within the boundaries of the Snake River Basin water system; and filing of a copy of the notice of commencement in the office of the county recorder in each county in which any part of the water system is located.

7. In addition to the steps taken in paragraph 6, the Idaho Department of Water Resources also served notices of commencement on persons who may have used water within the water system, but were not listed as owners of real property. The sources of information the Idaho Department of Water Resources reviewed for this purpose were: 1) water right records of the Idaho Department of Water Resources for each basin wholly or partly within the water system; 2) cooperating farm/ranch operator records of the United States Department of Agriculture, Agricultural Stabilization and Conservation Service for each basin wholly or partly within the water system; and 3) mining claim records on federal

land of the United States Department of Interior, Bureau of Land Management for each basin wholly or partly within the water system.

8. The Director has completed an examination of the Snake River Basin water system and submitted Director's Reports to this Court in conformance with the requirements of chapter 14, title 42, Idaho Code and the orders of this Court.

9. As required by title 42, chapter 14, Idaho Code and this Court's orders, claims to water rights arising under state or federal law to the use of the surface and ground waters from the Snake River Basin water system have been adjudicated resulting in the issuance of partial decrees that have been certified as final pursuant to I.R.C.P. 54(b).<sup>2</sup>

10. Idaho Code § 42-1412(8) (2003) provides that: "Upon resolution of all objections to water rights acquired under state law, to water rights established under federal law, and to general provisions, and after entry of partial decree(s), the district court shall combine all partial decrees and the general provisions into a final decree." The Court finds that the conditions of Idaho Code § 42-1412(8) (2003) have been met with respect to the water rights identified in Attachments 2, 4, 5 and 6 and the general provisions in Attachment 3, enabling the Court to issue this Final Unified Decree.

### III. CONCLUSIONS OF LAW

1. The SRBA is a general stream adjudication *inter se* of all water rights arising under state or federal law to the use of surface and ground waters from the Snake River Basin water system and for the administration of such rights.

2. The State of Idaho is a party to this proceeding.

---

<sup>2</sup> At the time of entry of this Final Unified Decree there are a total of 103 subcases pending final resolution. A separate *Order Regarding Subcases Pending Upon Entry of Final Unified Decree* is being entered contemporaneously herewith, which provides for the continued processing of the subcases listed therein.



3. The Director was withdrawn as a party to this proceeding in 1994. Idaho Code § 42-1401B (2003); *State of Idaho, ex rel. Higginson v. United States*, 128 Idaho 246, 256-57, 912 P.2d 614, 624-25 (1995).
4. The United States is a party to this proceeding under 43 U.S.C. § 666.
5. This Final Unified Decree is conclusive as to the nature and extent of all rights of the United States to the use of the waters of the Snake River Basin water system within the State of Idaho with a priority date before November 19, 1987, including, but not limited to, water rights held by the United States in trust for any Indian tribe, except for those water rights expressly exempted by Idaho Code § 42-1420 (2003) or by order of this Court.
6. The Nez Perce Tribe, the Northwestern Band of the Shoshoni Nation, the Shoshone-Bannock Tribes, and the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation are parties to this proceeding.
7. The *Consent Decree Approving Entry of Partial Final Decrees Determining the Rights of the United States as Trustee for the Benefit of the Nez Perce Tribe and the Nez Perce Tribe to the Use of Water in the Snake River Basin within Idaho and Partial Final Decrees Determining Minimum Stream Flow Water Rights Held by the Idaho Water Resources Board* with its six attachments dated January 30, 2007 ("*Nez Perce Consent Decree*"), is included in Attachment 4 and is hereby incorporated into this Final Unified Decree by reference. The *Nez Perce Consent Decree* is conclusive as to the nature and extent of all rights of the Nez Perce Tribe to the use of the waters of the Snake River Basin water system within the State of Idaho with a priority date before November 19, 1987, except for those water rights expressly exempted by Idaho Code § 42-1420 (2003) or by order of this Court.

8. The *Revised Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin*, dated August 13, 2014 (“*Shoshone-Bannock Consent Decree*”), is included in Attachment 4 and is hereby incorporated into this Final Unified Decree by reference. The *Shoshone-Bannock Consent Decree* is conclusive as to the nature and extent of all rights of the Shoshone-Bannock Tribes to the use of the waters of the Snake River Basin water system within the State of Idaho with a priority date before November 19, 1987, except for those water rights expressly exempted by Idaho Code § 42-1420 (2003) or by order of this Court.

9. The *Revised Consent Decree Approving Entry of Partial Decrees Determining the Rights of the United States as Trustee for the benefit of the Shoshone-Paiute Tribes to the Use of Water in the Snake River Basin within Idaho* with its three attachments, dated December 12, 2006 (“*Shoshone-Paiute Consent Decree*”), is included in Attachment 4 and is hereby incorporated into this Final Unified Decree by reference. The *Shoshone-Paiute Consent Decree* is conclusive as to the nature and extent of all rights of the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation to the use of the waters of the Snake River Basin water system within the State of Idaho with a priority date before November 19, 1987, except for those water rights expressly exempted by Idaho Code § 42-1420 (2003) or by order of this Court.

10. This Final Unified Decree is conclusive as to the nature and extent of all rights of the Northwestern Band of the Shoshoni Nation to the use of the waters of the Snake River Basin water system within the State of Idaho with a priority date before November 19, 1987, except for those water rights expressly exempted by Idaho Code § 42-1420 (2003) or by order of this Court.

11. Claimants in each of the SRBA basins received notice of the commencement of the SRBA in accordance with chapter 14, title 42, Idaho Code and orders of this Court. These notice procedures satisfy constitutional due process requirements. *LU Ranching Co. v. U.S.*, 138 Idaho 606 (2003).

#### IV. ORDER

NOW THEREFORE this Court ORDERS, ADJUDGES AND DECREES as follows:

1. This Final Unified Decree is conclusive as to the nature and extent of all water rights within the Snake River Basin within the State of Idaho with a priority date prior to November 19, 1987, except the following described water rights shall not be lost by failure to file a notice of claim, as provided in Idaho Code § 42-1420 (2003):

- a. Any domestic and stock water right, as defined in Idaho Code § 42-111 (1990), Idaho Code § 42-1401A(5) (1990), and Idaho Code § 42-1401A(12) (1990), the adjudication of which was deferred in accordance with this Court's June 28, 2012, *Order Governing Procedures in the SRBA for Adjudication of Deferred De Minimis Domestic and Stock Water Claims*;
- b. A water right application for permit filed under chapters 2 or 15, title 42, Idaho Code;
- c. A water right permit issued under chapters 2 or 15, title 42, Idaho Code, unless the Director required the permit holder to file a notice of claim in accordance with subsection (7) of section 42-1409, Idaho Code;
- d. A water right license issued under chapters 2 or 15, title 42, Idaho Code, if proof of beneficial use was not filed with the Department of Water Resources



before November 19, 1987, unless the Director required the license holder to file a notice of claim in accordance with subsection (7) of section 42-1409, Idaho Code; and

- e. A claim to a water right under federal law, if the priority of the right claimed is later than November 18, 1987.

All other water rights with a priority before November 19, 1987, not expressly set forth in this Final Unified Decree are hereby decreed as disallowed.<sup>3</sup> Any water rights with a priority date subsequent to November 18, 1987, were not required to be claimed in the SRBA, but to the extent any such water rights were claimed in the SRBA and a partial decree issued, the partial decree is conclusive as to the nature and extent of the right.

2. All partial decrees issued by this Court are set forth in Attachments 2 and 4 to this Final Unified Decree and are incorporated herein by reference.

3. Attachment 2 consists of a name index and a copy of all partial decrees issued by this Court.

4. General provisions decreed by this Court are set forth in Attachment 3 to this Final Unified Decree and are incorporated herein by reference.

5. Attachment 4 consists of the federal and tribal reserved water rights partially decreed and/or otherwise memorialized in a consent decree issued in conjunction with the approval of a federal reserved water right settlement, including all consent decrees and all attachments thereto; all partial decrees issued by this Court as part of the respective settlements; and all Federal, State and/or Tribal legislation necessary to enact and approve the water right settlements. In the case of any conflict between this Final Unified Decree and the partial

---

<sup>3</sup> Excepting those claim numbers listed in the *Order Regarding Subcases Pending Upon Entry of Final Unified Decree* entered contemporaneously herewith.



consent decrees approving reserved water right settlements, the partial consent decrees approving the reserved water right settlements as set forth in Attachment 4 shall control.

6. All claims to water rights filed in this proceeding that were decreed disallowed by this Court are set forth in Attachment 5 to this Final Unified Decree and are incorporated herein by reference.

7. The water right numbers for those water rights of record with the Idaho Department of Water Resources that were required to be claimed but were not claimed in this proceeding and therefore were decreed disallowed by this Court are set forth in Attachment 6 and are incorporated herein by reference. The portion of any disallowed water right that was deferrable pursuant to this Court's June 28, 2012, *Order Governing Procedures in the SRBA for Adjudication of Deferred De Minimis Domestic and Stock Water Claims* is not affected by this paragraph.

8. This Final Unified Decree is binding against all persons including any persons that deferred filing of domestic and/or stock water claims pursuant to this Court's June 28, 2012, *Order Governing Procedures in the SRBA for Adjudication of Deferred De Minimis Domestic and Stock Water Claims*, which is set forth in Attachment 7 to this Final Unified Decree and is incorporated herein by reference.

9. The adjudication of deferred domestic and stock water claims and the administration of such rights prior to their adjudication shall be governed by this Court's June 28, 2012, *Order Governing Procedures in the SRBA for Adjudication of Deferred De Minimis Domestic and Stock Water Claims* and applicable state law.

10. All water rights based on beneficial uses, licenses, permits, posted notices, and statutory claims required to be claimed in this proceeding are superseded by this Final

Unified Decree. Provided, however, this Final Unified Decree does not supercede the third-party beneficiary contractual rights conferred on certain classes of water rights pursuant to the "Contract to Implement Chapter 259, Sess. Law 1983" as authorized by 1983 Idaho Sess. Laws 689 and codified as Idaho Code § 61-540 (2002). The scope of third-party beneficiaries and contract rights are defined in this Court's *Order on State of Idaho's Motion for Partial Summary Judgment on Issue No. 2*. Subcase No. 00-91013 (Basin-Wide Issue 13) (July 12, 2011) included as Attachment 9.

11. All prior water right decrees and general provisions within the Snake River Basin water system are superseded by this Final Unified Decree except as expressly provided otherwise by partial decree or general provisions of this Court.

12. This Final Unified Decree shall not be construed to define, limit or otherwise affect the apportionment of benefits to lands within an irrigation district pursuant to chapter 7, title 43, Idaho Code.

13. This Final Unified Decree shall not be construed to supersede or affect otherwise the following: 1) any administrative changes to the elements of a water right completed after the entry of a partial decree but prior to the entry of this Final Unified Decree; or 2) elements of a water right defined by a license where, in accordance with Idaho Code § 42-1421(3) (2003), a partial decree was issued based on a permit prior to the issuance of the license.

14. The time period for determining forfeiture of a partial decree based upon state law shall be measured from the date of issuance of the partial decree by this Court and not from the date of this Final Unified Decree. State law regarding forfeiture does not apply to partial decrees based upon federal law.

15. The decreed water rights shall be administered in the Snake River Basin water system in accordance with this Final Unified Decree and applicable federal, state and tribal law, including the administrative provisions set forth in the federal reserved water right settlement agreements in Attachment 4.

16. Nothing in this Final Unified Decree shall be interpreted or construed as exempting the holder of a decreed water right based on state law from exercising or changing such right in compliance with applicable Idaho law.

17. This Court retains jurisdiction of this proceeding to: a) resolve any issues related to the Final Unified Decree that are not reviewable under the Idaho Administrative Procedures Act and/or the rules of the Idaho Department of Water Resources; b) adjudicate any domestic or stock water rights deferred under this Court's June 28, 2012, *Order Governing Procedures in the SRBA for Adjudication of Deferred De Minimis Domestic and Stock Water Claims*; and c) enter partial decrees, orders of disallowance, or other final determination for the pending subcases listed in the *Order Regarding Subcases Pending Upon Entry of Final Unified Decree* entered contemporaneously herewith. Any order amending or modifying this Final Unified Decree, including the attachments hereto, will be entered on the register of action for Civil Case No. 39576 in the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls, and will be filed with the Idaho Department of Water Resources in lieu of issuing an Amended Final Unified Decree. Attachment 8 contains instructions on how to access any orders amending this Final Unified Decree.

18. The incorporation by reference of partial decrees and orders of this Court contained in the Attachments to this Final Unified Decree does not constitute a reissuance of such partial decrees and orders.



19. This Final Unified Decree, including the entirety of Attachments 1 through 10 listed below, shall be entered in the records of the clerk of the District Court for the Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls.

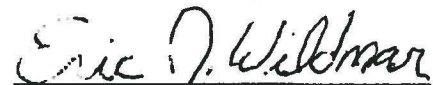
Attachment 1	Snake River Basin Water System Map.
Attachment 2	Partially Decreed Water Rights, including a name index, consisting of 770 pages.
Attachment 3	General Provisions, consisting of 113 pages.
Attachment 4	Federal and Tribal Reserved Water Right Settlements, including all Consent Decrees and all Attachments thereto, all Partial Decrees issued by this Court as part of the Respective Settlements, and all Federal, State and/or Tribal Legislation Necessary to Enact and Approve the Water Right Settlements consisting of 2,857 pages.
Attachment 5	List of Water Right Numbers for Filed Water Right Claims Decreed as Disallowed consisting of 66 pages.
Attachment 6	List of Water Right Numbers for Unclaimed Water Rights Decreed as Disallowed consisting of 24 pages.
Attachment 7	June 28, 2012, <i>Order Governing Procedures in the SRBA for Adjudication of Deferred De Minimis Domestic and Stock Water Claims</i> consisting of 6 pages.
Attachment 8	Instructions on Searching the Final Unified Decree consisting of 5 pages.
Attachment 9	<i>Order on State of Idaho's Motion for Partial Summary Judgment on Issue No. 2. Subcase No. 00-91013 (Basin-Wide Issue 13) (July 12, 2011).</i>
Attachment 10	<i>Register of Actions</i> , Twin Falls County Case No. 39576 (i.e., SRBA Main Case).

20. A certified paper and electronic copy of the entire Final Unified Decree shall be provided to the Director. The Director shall record the Final Unified Decree excluding all



Attachments other than Attachments 7 and 8 in the office of the county recorder of each county in which the place of use or point of diversion of any individual decreed water right in the Final Unified Decree is located. The Director shall maintain a copy of the Final Unified Decree for public inspection.

DATED this 25th day of August, 2014.

  
ERIC J. WILDMAN  
Presiding Judge  
Snake River Basin Adjudication

# ATTACHMENT 1

SNAKE RIVER BASIN WATER  
SYSTEM MAP consisting of 1 page.

# ATTACHMENT 2

## PARTIALLY DECREED WATER RIGHTS, INCLUDING A NAME INDEX AND A WATER RIGHT NUMBER INDEX

(water right number index in electronic  
copy only).

### TABLE OF CONTENTS

- |    |  |                    |
|----|--|--------------------|
| 1. | NAME INDEX                                   | Pages 1 to 770     |
| 2. | WATER RIGHT NO. INDEX (electronic copy only) |                    |
| 3. | PARTIAL DECREES                              | Beginning Page 771 |





# ATTACHMENT 3

GENERAL PROVISIONS  
consisting of 113 pages.

# ATTACHMENT 4

FEDERAL AND TRIBAL  
RESERVED WATER RIGHT  
SETTLEMENTS, INCLUDING  
ALL CONSENT DECREES AND  
ALL ATTACHMENTS THERETO,  
ALL PARTIAL DECREES  
ISSUED BY THIS COURT AS  
PART OF THE RESPECTIVE  
SETTLEMENTS, AND ALL  
FEDERAL, STATE AND/OR  
TRIBAL LEGISLATION  
NECESSARY TO ENACT AND  
APPROVE THE WATER RIGHT  
SETTLEMENTS CONSISTING OF  
2,857 PAGES.

## TABLE OF CONTENTS FOR ATTACHMENT 4

	Page
<i>Revised Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin, dated August 13, 2014.</i>	1
<i>The 1990 Fort Hall Indian Water Rights Agreement by and between the Shoshone Bannock Tribes of the Fort Hall Indian Reservation, the State of Idaho, the United States, and Certain Idaho Water Users, dated July 5, 1990.</i>	211
<i>Public Law 101-602, 104 Stat. 3059 (November 16, 1990).</i>	288
<i>Chapter 228, 1991 Idaho Sess. L. 547.</i>	293
<i>H.C.R. No. 16, 1985 Idaho Sess. L. 745.</i>	294
<i>Resolutions of the Business Council of the Shoshone-Bannock Tribes, dated June 15, 1990; July 5, 1990; and June 14, 1991.</i>	295
<i>Revised Consent Decree Approving Entry of Partial Decrees Determining the Rights of the United States as Trustee for the Benefit of the Shoshone-Paiute Tribes to the Use of Water in the Snake River Basin within Idaho, dated December 12, 2006.</i>	300
<i>Consent Decree Approving Entry of Partial Final Decrees Determining the Rights of the United States as Trustee for the Benefit of the Nez Perce Tribe and the Nez Perce Tribe to the Use of Water in the Snake River Basin within Idaho and Partial Final Decrees Determining Minimum Stream Flow Water Rights Held by the Idaho Water Resources Board, dated January 30, 2007.</i>	669
<i>Snake River Water Rights Act of 2004, Pub. L. 108-447, Division J, Title X (December 8, 2004).</i>	2523
<i>Chapter 148, 2005 Idaho Sess. L. 461.</i>	2534
<i>Chapter 149, 2005 Idaho Sess. L. 462-465.</i>	2535
<i>Chapter 150, 2005 Idaho Sess. L. 465-466.</i>	2539
<i>Nez Perce Tribal Resolution No. 05-210 (March 29, 2005).</i>	2541



<i>Water Rights Agreement Between the State of Idaho and the United States for the Craters of the Moon National Monument</i> (May 13, 1992); <i>Orders of Partial Decree</i> entered Dec. 1, 1998 (Subcase Nos. 34-12383, 34-12384, 34-12385, 34-12386, 34-12387, 34-12388, and 34-12389).	2545
<i>Water Rights Agreement Between the State of Idaho and the United States for the United States Department of Energy</i> (July 20, 1990); <i>Order of Partial Decree</i> entered <i>nunc pro tunc</i> June 20, 2003 (Subcase No. 34-10901).	2600
<i>Order Approving Stipulation and Entry of Basin 79 Partial Decrees</i> (Subcase No. 79-13597, Hells Canyon National Recreation Area Act Claims, Nov. 16, 2004).	2643
<i>Order Approving Entry of Basin 78 Partial Decrees</i> , dated May 2, 2005 (Consolidated Subcase No. 79-13597 Hells Canyon National Recreation Area Act Claims (Encompassing Subcases 79-14054 through 79-14079 and Subcases 78-12200 through 78-12205).	2753
<i>Amended Order Approving Stipulation and Entry of Partial Decrees</i> (Consolidated Subcase No. 75-13316 (Wild & Scenic Rivers Act Claims, Nov. 17, 2004).	2781
<i>Order of Partial Decree on Uncontested Federal Water Right Claims</i> , dated February 28, 2012 (Water Rights Agreement Between the State of Idaho and the United States for Yellowstone National Park).	2822

# ATTACHMENT 5

## LIST OF WATER RIGHT NUMBERS FOR FILED WATER RIGHT CLAIMS DECREED AS DISALLOWED consisting of 66 pages.

The disallowed water right numbers listed in Attachment 5 fall into two categories: (1) water right numbers where the actual claimed use of water was adjudicated to be disallowed; and (2) water right numbers where the water right was split subsequent to the filing of the director's report, with the claimed use of water being decreed under the water right numbers for the "children" rights, and the number for the "parent" right having been decreed disallowed for purposes of closing the subcase number in the court's register of action. Please consult the Idaho Department of Water Resources for further inquiry regarding any of the disallowed water right numbers listed in Attachment 5.

# ATTACHMENT 6

LIST OF WATER RIGHT  
NUMBERS FOR UNCLAIMED  
WATER RIGHTS DECREED AS  
DISALLOWED consisting of  
24 pages.



# ATTACHMENT 7

June 28, 2012, *Order Governing Procedures in the SRBA for Adjudication of Deferred De Minimis Domestic and Stock Water Claims* consisting of 6 pages.



# ATTACHMENT 8

INSTRUCTIONS ON  
SEARCHING THE FINAL  
UNIFIED DECREE consisting of  
5 pages.

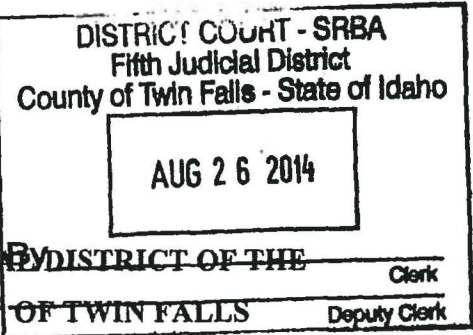
# ATTACHMENT 9

*Order on State of Idaho's Motion for  
Partial Summary Judgment on Issue  
No. 2. Subcase No. 00-91013 (Basin-  
Wide Issue 13) (July 12, 2011)*



# ATTACHMENT 10

*Register of Actions*, Twin Falls Case  
No. 39576 (i.e., SRBA Main Case)



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

In Re SRBA ) Subcase Nos. 01-00219 et al., (see  
Case No. 39576 ) attached list)  
 )  
 ) ORDER REGARDING SUBCASES  
 ) PENDING UPON ENTRY OF FINAL  
 ) UNIFIED DECREE

This *Order Regarding Subcases Pending Upon Entry of Final Unified Decree* is being entered for the purpose providing direction as to the continued processing of the presently pending subcases listed on the attachment to this *Order*. With respect to those subcases the following are HEREBY ORDERED:


(1) This Court retains jurisdiction over those subcases until such time as a final determination is made and the time for appeal has run, and thereafter retains jurisdiction pursuant to the Final Unified Decree, Section IV, paragraph 17.

(2) After entry of final orders, decrees, or other final determination in the pending subcases listed on the attachment hereto the SRBA Court will, if necessary, issue an order amending the Final Unified Decree for the purpose of incorporating such final orders, decrees, or other final determination into the Final Unified Decree. Any such order amending the Final Unified Decree will be made pursuant to the directives set forth in Section IV, paragraph 17, therein.

(3) The Clerk of the Court is instructed to docket this *Order* in each subcase listed on the attachment hereto.

IT IS SO ORDERED;

Dated Aug 25, 2014

  
ERIC J. WILDMAN  
Presiding Judge  
Snake River Basin Adjudication

## PENDINGSUBCASES

01-219	24-10711	55-13897
01-2064	24-10712	55-13898
01-2068	24-10727	55-13899
01-4055	24-10787	55-13900
01-10042	24-10790	55-13901
01-10043	24-10791	55-13902
01-10044	24-10792	55-13903
01-10045	24-10793	
01-10614	24-10794	63-301A
01-10615	24-10795	63-301B
01-10616	24-10796	63-301C
01-10617	24-10797	63-302A
01-10618	24-10798	63-302B
01-10620		63-302C
01-10621	25-7004	63-373A
01-10622	25-14413	63-373B
01-10623		63-373C
01-10630	31-11228	63-33707
	31-12314	63-33732
21-94C		63-33733
21-96C	37-22806	63-33734
21-97D		63-33737
21-2038	47-17578	63-33738
21-2062	47-17579	
21-2156		65-23531
21-4155	51-13089	65-23532
21-10560	51-13090	
21-13161	51-13091	74-1615
21-13193	51-13092	74-2351
	51-13093	74-15911
22-14112	51-13094	
22-14115	51-13095	75-10117
	51-13096	
24-10668	51-13097	

**CERTIFICATE OF MAILING**

I certify that a true and correct copy of the ORDER REGARDING SUBCASES PENDING UPON ENTRY OF FINAL UNIFIED DECREE was mailed on August 27, 2014, with sufficient first-class postage to the following:

CITY OF POCA TELLO

Represented by:  
A. DEAN TRANMER  
CITY OF POCA TELLO  
PO BOX 4169  
POCA TELLO, ID 83201  
Phone: 208-234-6148

IDAHO POWER COMPANY

Represented by:  
ADAM T DEVOE  
BROWNSTEIN HYATT & FARBER PC  
410 17TH ST 22ND FL  
DENVER, CO 80202-4437  
Phone: 303-223-1100

BOISE PROJECT BOARD OF CONTROL  
LEMHI GOLD TRUST LLC

Represented by:  
ALBERT P BARKER  
1010 W JEFFERSON ST STE 102  
PO BOX 2139  
BOISE, ID 83701-2139  
Phone: 208-336-0700

PIONEER IRR DIST

Represented by:  
ANDREW J WALDERA  
101 S CAPITOL BLVD 10TH FL  
PO BOX 829  
BOISE, ID 83701-0829  
Phone: 208-345-2000

MILNER IRRIGATION DISTRICT

Represented by:  
BARKER ROSHOLT & SIMPSON LLP  
195 RIVER VISTA PL STE 204  
TWIN FALLS, ID 83301-3029  
Phone: 208-733-0700

JENNIFER AYERS

MALINDA TRACY  
SHANNA FOSTER  
VINCENT TRACY  
Represented by:  
BROMLEY, CHRIS M  
380 S 4TH STREET STE 103  
BOISE, ID 83702  
Phone: 208-287-0991

AMERICAN FALLS RESERVOIR

Represented by:  
C THOMAS ARKOOSH  
ARKOOSH LAW OFFICES  
802 W BANNOCK ST SUITE 900  
PO BOX 2900  
BOISE, ID 83701  
Phone: 208-334-5105

BLACK CANYON IRR DIST  
NEW YORK IRRIGATION DISTRICT

Represented by:  
CHARLES F MC DEVITT  
420 W BANNOCK ST  
PO BOX 2564  
BOISE, ID 83701-2564  
Phone: 208-343-7500

STATE OF IDAHO

Represented by:  
CHIEF NATURAL RESOURCES DIV  
OFFICE OF THE ATTORNEY GENERAL  
STATE OF IDAHO  
PO BOX 44449  
BOISE, ID 83711-0449  
Phone: 208-334-2400

AMERICAN FALLS RESERVOIR

Represented by:  
CRAIG D HOBDEY  
HOBDEY LAW OFFICE PLLC  
125 5TH AVE  
PO BOX 176  
GOODING, ID 83330-0176  
Phone: 208-934-4429



(Certificate of mailing continued)

BALLENTYNE DITCH COMPANY  
BOISE VALLEY IRRIGATION  
CANYON COUNTY WATER COMPANY  
EUREKA WATER COMPANY  
FARMERS' CO-OPERATIVE DITCH CO  
MIDDLETON IRRIGATION ASSN INC  
MIDDLETON MILL DITCH COMPANY  
NAMPA & MERIDIAN IRRIGATION  
NEW DRY CREEK DITCH COMPANY  
PIONEER DITCH COMPANY  
SETTLERS IRRIGATION DISTRICT  
SOUTH BOISE WATER COMPANY  
THURMAN MILL DITCH COMPANY

Represented by:  
DANIEL V STEENSON  
SAWTOOTH LAW OFFICES PLLC  
1101 W RIVER ST STE 110  
PO BOX 7985  
BOISE, ID 83707  
Phone: 208-629-7447

IDAHO POWER COMPANY  
Represented by:  
JAMES C TUCKER  
IDAHO POWER CO  
1221 W IDAHO ST  
PO BOX 70  
BOISE, ID 83707-0070  
Phone: 208-388-2112

AMERICAN FALLS SPACEHOLDERS  
B TRIPLE J LLC  
BLACKFOOT IRRIGATION CO  
FREMONT MADISON IRRIGATION  
FREMONT-MADISON IRRIGATION  
GUNDERSON, PAUL  
JERRY R RIGBY  
MICHAEL BRYAN MOEDL  
NORTH FORK RESERVOIR CO  
PAUL GUNDERSON  
UNITED CANAL CO  
W-DIAMOND RANCHES LLC

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

A & B IRRIGATION DISTRICT  
AMERICAN FALLS RESERVOIR  
BURLEY IRRIGATION DISTRICT  
HILLSDALE IRRIGATION DISTRICT  
MILNER IRRIGATION DISTRICT  
MINIDOKA IRRIGATION DISTRICT  
NORTH SIDE CANAL CO LTD  
NORTH SIDE CANAL COMPANY  
TWIN FALLS CANAL COMPANY

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

CITY OF POCATELLO  
Represented by:  
JOSEPHINE P BEEMAN  
1019 N 17TH ST  
BOISE, ID 83702-3304  
Phone: 208-331-0950

(Certificate of mailing continued)

UNITED WATER IDAHO INC

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

A & B IRRIGATION DISTRICT  
AMERICAN FALLS RESERVOIR  
BURLEY IRRIGATION DISTRICT  
HILLSDALE IRRIGATION DISTRICT  
MILNER IRRIGATION DISTRICT  
MINIDOKA IRRIGATION DISTRICT  
NORTH SIDE CANAL CO LTD  
NORTH SIDE CANAL COMPANY  
TWIN FALLS CANAL COMPANY

Represented by:  
PAUL L ARRINGTON  
195 RIVER VISTA PL STE 204  
TWIN FALLS, ID 83301-3029  
Phone: 208-733-0700

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

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

B TRIPLE J LLC  
W-DIAMOND RANCHES LLC

Represented by:  
ROBERT H WOOD  
RIGBY ANDRUS RIGBY CHARTERED  
25 NORTH 2ND EAST  
PO BOX 250  
REXBURG, ID 83340  
Phone: 208-356-3633

CARL & GLADYS LUNDHOLM ESTATE  
RICHARD A RABE

Represented by:  
ROBERT L HARRIS  
1000 RIVERWALK DR, STE 200  
PO BOX 50130  
IDAHO FALLS, ID 83405-0130  
Phone: 208-523-0620

A & B IRRIGATION DISTRICT  
BURLEY IRRIGATION DISTRICT  
FALLS IRRIGATION DISTRICT

Represented by:  
ROGER D LING  
PO BOX 623  
RUPERT, ID 83350-0623  
Phone: 208-434-2717

ORDER

Page 3  
8/27/14

(Certificate of mailing continued)

BALLENTYNE DITCH COMPANY  
BOISE VALLEY IRRIGATION  
CANYON COUNTY WATER COMPANY  
EUREKA WATER COMPANY  
FARMERS' CO-OPERATIVE DITCH CO  
MIDDLETON IRRIGATION ASSN INC  
MIDDLETON MILL DITCH COMPANY  
NAMPA & MERIDIAN IRRIGATION  
NEW DRY CREEK DITCH COMPANY  
PIONEER DITCH COMPANY  
SETTLERS IRRIGATION DISTRICT  
SOUTH BOISE WATER COMPANY  
THURMAN MILL DITCH COMPANY

Represented by:  
S. BRYCE FARRIS  
SAWTOOTH LAW OFFICES PLLC  
1101 W RIVER ST STE 110  
PO BOX 7985  
BOISE, ID 83707  
Phone: 208-629-7447

CITY OF POCA TELLO  
Represented by:  
SARAH A KLAHN  
WHITE & JANKOWSKI LLP  
KIT TREDGE BUILDING  
511 16TH ST STE 500  
DENVER, CO 80202  
Phone: 303-595-9441

BOISE PROJECT BOARD OF CONTROL  
LEMHI GOLD TRUST LLC  
Represented by:  
SHELLEY M DAVIS  
1010 W JEFFERSON ST STE 102  
PO BOX 2139  
BOISE, ID 83701-2139  
Phone: 208-336-0700

STATE OF IDAHO  
Represented by:  
STATE OF IDAHO  
PO BOX 44449  
BOISE, ID 83711-4449  
Phone: 208-334-2400

A & B IRRIGATION DISTRICT  
AMERICAN FALLS RESERVOIR  
BURLEY IRRIGATION DISTRICT  
HILLSDALE IRRIGATION DISTRICT  
MILNER IRRIGATION DISTRICT  
MINIDOKA IRRIGATION DISTRICT  
NORTH SIDE CANAL CO LTD  
NORTH SIDE CANAL COMPANY  
TWIN FALLS CANAL COMPANY

Represented by:  
TRAVIS L THOMPSON  
195 RIVER VISTA PL STE 204  
TWIN FALLS, ID 83301-3029  
Phone: 208-733-0700

UNITED STATES OF AMERICA  
USDI BUREAU OF RECLAMATION  
Represented by:  
US DEPARTMENT OF JUSTICE  
ENVIRONMENT & NATL' RESOURCES  
550 WEST FORT STREET, MSC 033  
BOISE, ID 83724

AMERICAN FALLS RESERVOIR  
MINIDOKA IRRIGATION DISTRICT  
Represented by:  
W KENT FLETCHER  
1200 OVERLAND AVE  
PO BOX 248  
BURLEY, ID 83318-0248  
Phone: 208-678-3250

BONNEVILLE-JEFFERSON GROUND  
WATER DISTRICT

LYNDEN JENKINS  
BOX 171  
FREEDOM, WY 83120  
Phone: 208-873-2888

LUCILLE JENKINS  
BOX 215  
FREEDOM, WY 83120  
Phone: 208-873-2888

ORDER



(Certificate of mailing continued)

GARY O HOKANSON  
BOX 251  
FREEDOM, WY 83120  
Phone: 307-413-4763

UNITED STATES OF AMERICA  
BUREAU OF RECLAMATION  
REGIONAL DIRECTOR PN CODE-3100  
1150 N CURTIS RD STE 100  
BOISE, ID 83706-1234  
Phone: 208-378-5322

FOUR STAR INVESTMENTS LP  
C/O ALLEN R HOOPES  
PO BOX 226  
FREEDOM, WY 83120  
Phone: 307-880-6000

JAMES KONTES  
PO BOX 112  
FIRTH, ID 83236  
Phone: 208-346-6093

ROBERT F WEBER  
PO BOX 123  
FREEDOM, WY 83120  
Phone: 208-873-2936

DIANE SHARP  
RONALD SHARP  
PO BOX 139  
FREEDOM, WY 83120  
Phone: 913-620-1470

BORDEN JENKINS  
PO BOX 215  
FREEDOM, WY 83120

SHARON DAVIES REID  
TERRY REID  
PO BOX 2181  
KETCHUM, ID 83340

ALLEN B LUTHI  
ANN S LUTHI  
PO BOX 223  
FREEDOM, WY 83120  
Phone: 307-880-0134

FERN WEBER  
PO BOX 232  
FREEDOM, WY 83120  
Phone: 208-873-2347

MARSHA HADERLIE  
PO BOX 233  
FREEDOM, WY 83120  
Phone: 307-248-2747

ANN HELTSLEY  
PO BOX 3  
NORTH FORK, ID 83466  
Phone: 208-865-2013

KYLE WEBER  
PO BOX 314  
FREEDOM, WY 83120  
Phone: 208-248-0337

MITZI J FELTON  
PO BOX 8  
NORTH FORK, ID 83466  
Phone: 208-865-2243

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

FLINT GREENHOUSE/MT  
STATES PLANTS  
PO BOX 724  
LAYTON, UT 84041

ROBERT FELTON  
1373 3RD AVE  
SALT LAKE CITY, UT 84103  
Phone: 801-583-3319

ORDER

Page 5  
8/27/14



(Certificate of mailing continued)

CHARLES MADENFORD FAMILY TRUST  
3605 N POLLARD LN  
STAR, ID 83669  
Phone: 208-830-9911

CHRIS BARNEY  
DORIS BARNEY  
3660 MCDONALD RD  
WAPATO, WA 98951  
Phone: 509-877-3651

ANNETTE LUTHI  
4001 STATELINE RD  
FREEDOM, WY 83120  
Phone: 208-873-2624

HARROP LABELLE RANCHES LTD  
626 N 4200 E  
RIGBY, ID 83442  
Phone: 208-745-6220

H MARTELL BROWER  
65 STATELINE RD  
FREEDOM, WY 83120  
Phone: 208-873-2635

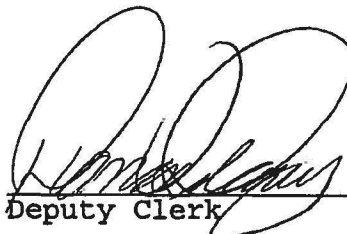
JOHN ALFRED SIMPSON  
774 LEMHI RD  
SALMON, ID 83467  
Phone: 208-756-6845

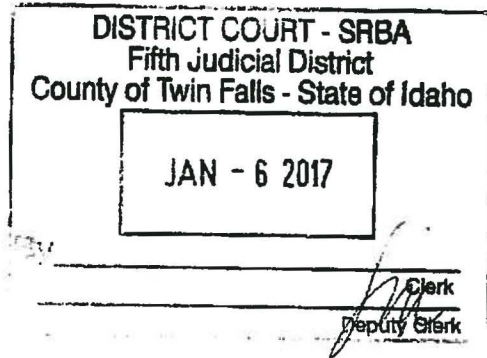
J FRED WRIGHT  
JACQUELINE M WRIGHT  
910 CASTEC DR  
SACRAMENTO, CA 95864  
Phone: 916-283-6955

ORDER

Page 6 8/27/14

FILE COPY FOR 00043 Deputy Clerk





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

**In Re SRBA** ) Subcase Nos. 63-33732 (consolidated subcase no. 63-  
 ) 33737), 63-33733 (consolidated subcase no. 63-  
**Case No. 39576** ) 33738), and 63-33734  
 )  
 ) **ORDER DENYING MOTION FOR I.R.C.P. 54(b)**  
 ) **CERTIFICATE**  
 )  
 )  
 )

---

**I.**

**BACKGROUND**

On September 1, 2016, the Court entered a *Memorandum Decision and Order on Challenge* in the above-captioned subcases (“*Memorandum Decision*”). On that same date, the Court entered an *Order* recommitting the subcases to the Special Master for further proceedings consistent with the *Memorandum Decision*. On December 6, 2016, the Ditch Companies filed a *Motion for Rule 54(b) Certification*, requesting that this Court certify the *Memorandum Decision* as a final judgment.<sup>1</sup> The Boise Project Board of Control joins in the *Motion*. Briefing in opposition to the *Motion* was filed by the State of Idaho and Suez Water Idaho Inc. The Court rescinded the order of reference to the Special Master for the limited purpose of hearing the *Motion*. A hearing on the *Motion* was held on December 20, 2016.

---

<sup>1</sup> The term “Ditch Companies” refers collectively to Ballentyne Ditch Company, Boise Valley Irrigation Ditch Company, Canyon County Water Company, Eureka Water Company, Farmers’ Co-operative Ditch Company, Middleton Mill Ditch Company, Middleton Irrigation Association, Nampa & Meridian Irrigation District, New Dry Creek Ditch Company, Pioneer Ditch Company, Pioneer Irrigation District, Settlers Irrigation District, South Boise Water Company, and Thurman Mill Ditch Company.

## II. ANALYSIS

The Ditch Companies ask the Court to certify the *Memorandum Decision* as a final and appealable judgment under Rule 54(b). The Court in an exercise of its discretion declines to do so. In denying the *Motion*, the Court first finds that the Court did not direct entry of a final judgment as to any of the claims involved in the above-captioned subcases. That is, the Court did not enter a *Partial Decree* either allowing or disallowing any of the water right claims involved. Therefore, the *Memorandum Decision* is an interlocutory order. The Court next finds that the movants did not timely seek appeal of the *Memorandum Decision* by permission under Idaho Appellate Rule 12. Moving for a Rule 54(b) certification is not a substitute for timely seeking appeal by permission of an interlocutory order under Idaho Appellate Rule 12.

Finally, the Court is unable to make a determination under Rule 54(b) that there is no just reason for delay. The State of Idaho raised numerous issues in the summary judgment proceedings before the Special Master. The Special Master failed to reach any of these issues due to the limited scope of his ruling. As a result, the only issue the Court would be certifying as final for purposes of appeal pertains to the proper jurisdiction for resolving disputes implicating the scope of decreed water rights. The substantive issue regarding the scope of the decreed reservoir rights is at issue in the administrative cases currently on appeal. Depending on the outcome of the appeal the reservoir right holders can determine whether or not to further pursue the late claims. Therefore, while it may promote judicial economy to motion the Special Master to stay the late claim proceedings pending the outcome of the administrative appeal, it would not promote judicial economy to create a situation potentially requiring further appeals once the issues raised by the State have been ruled on.

Therefore, the Court will deny the *Motion* and recommit the subcases to the Special Master for further proceedings.


**III.**  
**ORDER**

THEREFORE, BASED ON THE FOREGOING THE FOLLOWING ARE HEREBY ORDERED:

1. The *Motion for Rule 54(b) Certification* is **denied**.
2. The subcases are recommitted to the Special Master for further proceedings consistent with the Court's *Memorandum Decision*.

IT IS SO ORDERED.

DATED: January 6, 2017

  
\_\_\_\_\_  
ERIC J. WILDMAN  
Presiding Judge  
Snake River Basin Adjudication



**CERTIFICATE OF MAILING**

I certify that a true and correct copy of the ORDER DENYING MOTION FOR I.R.C.P. 54(B) CERTIFICATE was mailed on January 06, 2017, with sufficient first-class postage to the following:

ALBERT P BARKER  
1010 W JEFFERSON ST STE 102  
PO BOX 2139  
BOISE, ID 83701-2139  
Phone: 208-336-0700

ANDREW J WALDERA  
SAWTOOTH LAW OFFICES PLLC  
1101 W RIVER ST STE 110  
PO BOX 7985  
BOISE, ID 83707  
Phone: 208-629-7447

CHIEF NATURAL RESOURCES DIV  
OFFICE OF THE ATTORNEY GENERAL  
STATE OF IDAHO  
PO BOX 83720  
BOISE, ID 83720-0010  
Phone: 208-334-2400

CHRISTOPHER H MEYER  
601 W BANNOCK ST  
PO BOX 2720  
BOISE, ID 83701-2720  
Phone: 208-388-1200

DANIEL V STEENSON  
SAWTOOTH LAW OFFICES PLLC  
1101 W RIVER ST STE 110  
PO BOX 7985  
BOISE, ID 83707  
Phone: 208-629-7447

MICHAEL P LAWRENCE  
601 W BANNOCK ST  
PO BOX 2720  
BOISE, ID 83701-2720  
Phone: 208-388-1200

S. BRYCE FARRIS  
SAWTOOTH LAW OFFICES PLLC  
1101 W RIVER ST STE 110

PO BOX 7985  
BOISE, ID 83707  
Phone: 208-629-7447

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

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


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

ORDER

Page 1 1/06/17

FILE COPY FOR 02399

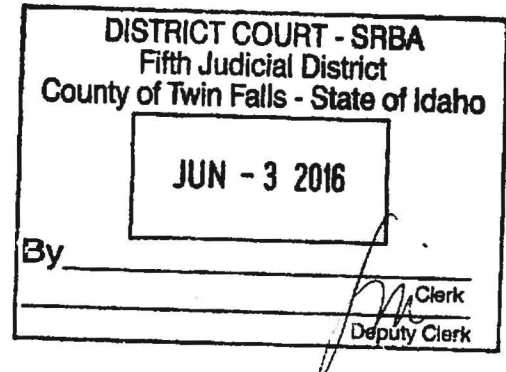
Deputy Clerk



IDAHO DEPARTMENT OF WATER RESOURCES  
CLAIMS / RIGHTS NOT RECOMMENDED

<u>W.R. NUMBER</u>	<u>NAME AND ADDRESS</u>	<u>CLAIM DISPOSITION</u>	<u>REASON</u>
63-33732	UNITED STATES OF AMERICA ACTING THROUGH BUREAU OF RECLAMATION REGIONAL DIRECTOR PN CODE-3100 1150 N CURTIS RD STE 100 BOISE ID 83706-1234	Disallowed	The use of floodwaters captured in evacuated flood control space in on-stream reservoirs in Basin 63 for irrigation and other beneficial purposes is a historical practice. The Department recommends that the historical practice be recognized by the SRBA through a general provision.
63-33733	UNITED STATES OF AMERICA ACTING THROUGH BUREAU OF RECLAMATION REGIONAL DIRECTOR PN CODE-3100 1150 N CURTIS RD STE 100 BOISE ID 83706-1234	Disallowed	The use of floodwaters captured in evacuated flood control space in on-stream reservoirs in Basin 63 for irrigation and other beneficial purposes is a historical practice. The Department recommends that the historical practice be recognized by the SRBA through a general provision.
63-33734	UNITED STATES OF AMERICA ACTING THROUGH BUREAU OF RECLAMATION REGIONAL DIRECTOR PN CODE-3100 1150 N CURTIS RD STE 100 BOISE ID 83706-1234	Disallowed	The use of floodwaters captured in evacuated flood control space in on-stream reservoirs in Basin 63 for irrigation and other beneficial purposes is a historical practice. The Department recommends that the historical practice be recognized by the SRBA through a general provision.
63-33737	BOISE PROJECT BOARD OF CONTROL ATTN ALBERT BARKER 1010 W JEFFERSON ST STE 102 PO BOX 2139 BOISE ID 83702-2139	Disallowed	The use of floodwaters captured in evacuated flood control space in on-stream reservoirs in Basin 63 for irrigation and other beneficial purposes is a historical practice. The Department recommends that the historical practice be recognized by the SRBA through a general provision.
63-33738	BOISE PROJECT BOARD OF CONTROL ATTN ALBERT BARKER 1010 W JEFFERSON ST STE 102 PO BOX 2139 BOISE ID 83702-2139	Disallowed	The use of floodwaters captured in evacuated flood control space in on-stream reservoirs in Basin 63 for irrigation and other beneficial purposes is a historical practice. The Department recommends that the historical practice be recognized by the SRBA through a general provision.
65-23531	UNITED STATES OF AMERICA ACTING THROUGH BUREAU OF RECLAMATION REGIONAL DIRECTOR PN CODE-3100 1150 N CURTIS RD STE 100 BOISE ID 83706-1234	Disallowed	Right not claimed in prior adjudication.
65-23532	UNITED STATES OF AMERICA ACTING THROUGH BUREAU OF RECLAMATION REGIONAL DIRECTOR PN CODE-3100 1150 N CURTIS RD STE 100 BOISE ID 83706-1234	Disallowed	Right not claimed in prior adjudication.
74-15911	VINCENT TRACY 3 PRAIRIE RD SALMON ID 83467  MALINDA TRACY 3 PRAIRIE RD SALMON ID 83467	Disallowed	No lawful appropriation shown.

JOHN C. CRUDEN  
Assistant Attorney General  
Environmental and Natural Resources Division  
DAVID W. GEHLERT  
Natural Resources Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
999 18<sup>th</sup> Street  
South Terrace – Suite 370  
Denver, Colorado 80294  
Phone: (303) 844-1386  
Fax: (303) 844-1350



Counsel for the United States of America

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

<b>In Re SRBA</b>	)	<b>Subcase Nos.: 01-219, 01-10622, 01-2064,</b>
	)	<b>01-10042, 01-10620, 01-2068, 01-10043</b>
<b>Case No. 39576</b>	)	<b>01-10621A, 01-10621B, 01-4055, 01-10044</b>
	)	<b>01-10045, 01-10623, 01-10614, 01-10615</b>
	)	<b>01-10616, 01-10617, 01-10618, 21-2156,</b>
	)	<b>21-10560, 21-13161, 21-4155 and 25-7004</b>
	)	
	)	<b>STATUS REPORT</b>
	)	
	)	

Pursuant to the Court's Order of May 27, 2016, the United States informs the Court that the United States signed the Stipulation on November 16, 2015 and that the United States has no objection to the State's *Motion for Order Decreeing Water Rights*. A copy of the Stipulation with all parties' signatures is attached. Counsel for the United States informed the other parties to the stipulation that it had signed the stipulation but neglected to inform the Court. Counsel for the United States apologizes for the oversight.

/

/

/

DATED this 2<sup>nd</sup> day of June, 2016.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'D. Gehlert', written over a horizontal line.

David W. Gehlert



## **CERTIFICATE OF SERVICE**

I certify that on June 2, 2016, I served true and correct copies of the foregoing STATUS REPORT as follows:

via FedEx mail:

Clerk of the District Court (original + 23 copies)  
Snake River Basin Adjudication  
253 Third Avenue North  
Twin Falls, ID 83303-2707  
Phone: 208-736-3011  
Fax: 208-736-2121

via First Class U.S. Mail, pre-paid:

A. Dean Tranmer  
City of Pocatello  
PO Box 4169  
Pocatella, ID 83201

Charles F. McDevitt  
PO Box 1543  
Boise, ID 83701-1543

Andrew J. Waldera  
Sawtooth Law Offices PLLC  
PO Box 7985  
Boise, ID 83707

Adam T. Devoe  
Brownstein Hyatt & Farber PC  
410 17<sup>th</sup> Street, 22<sup>nd</sup> FL  
Denver, CO 80202-4437

Sarah A. Klahn  
White & Jankowski LLP  
Kittredge Building  
511 16<sup>th</sup> street, STE 500  
Denver, CO 80202

W. Kent Fletcher  
Fletcher Law Office  
P. O. Box 248  
Burley, ID 83310248

C.Thomas Arkoosh  
Arkoosh Law Offices  
P.O. Box 2900  
Boise, ID 83701

Michael A. Ealy  
PO Box 1336  
Coeur d'Alene, ID 83816-1336

John K. Simpson  
Shelley M. Davis  
P.O. Box 2139  
Boise, ID 83701-2139

Roger D. Ling  
Ling Law Office  
P.O. Box 623  
Rupert, ID 83350-0623

James C. Tucker  
Idaho Power Company  
P.O. Box 70  
Boise, ID 83707-0070

Greg D. Hobdey  
Hobdey Law Office PLLC  
PO Box 176  
Gooding, ID 83330-0176

Randall C. Budge  
P.O. Box 1391  
Pocatello, ID 83204-1391

Christopher H. Meyer  
PO Box 2720  
Boise, ID 83701-2720

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

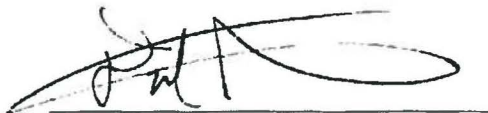
United States Department of Justice  
Environment and  
Natural Resources Div.  
550 West Fort Street, MSC 033  
Boise, ID 83724

Bureau of Reclamation  
Regional Director PN Code-3100  
1150 N. Curtis Rd. STE 100  
Boise, ID 83706-1234

Director of IDWR  
Idaho Water Center  
P.O. Box 83720  
Boise, ID 83720-0098

Jerry R. Rigby  
Rigby Andrus & Rigby  
P.O. Box 250  
Rexburg, ID 83440-0250

Travis L. Thompson,  
Paul L. Arrington  
Barker Rosholt & Simpson LLP  
PO Box 63  
Twin Falls, ID 83303-0063

A handwritten signature in black ink, appearing to read 'D. W. Gehlert', is written over a horizontal line.

David W. Gehlert

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

**In Re SRBA**

**Case No. 39576**

)  
) Subcase Nos. 01-219, 01-10622  
) (Lake Walcott)

)  
) Subcase Nos. 01-02064, 01-10042,  
) 01-10620  
) (American Falls)

)  
) Subcase Nos. 01-02068, 01-10043,  
) 01-10621A, 01-10621B  
) (Palisades)

)  
) Subcase Nos. 01-4055, 01-10044, 01-10045,  
) 01-10623  
) (Jackson Lake)

)  
) Subcase Nos. 21-2156, 21-10560, 21-13161  
) (Island Park)

)  
) Subcase No. 21-4155, 21-13194  
) (Grassy Lake)

)  
) Subcase Nos. 21-2154, 21-2161, 21-12946,  
) 21-13193  
) (Henrys Lake)

)  
) Subcase Nos. 25-7004, 25-14413A, 25-  
) 14413B  
) (Ririe)

)  
) Subcase Nos. 01-10614, 01-10615  
) 01-10616, 01-10617, 01-10618  
)

---

## STIPULATION

This Stipulation is made and entered into among the Parties to the above-referenced subcases and the Director ("Director") of the Idaho Department of Water Resources ("Department").<sup>1</sup> The Parties, by and through their counsel of record, and the Director hereby stipulate and agree as follows:

1. This stipulation resolves disputes regarding the "fill" and/or "refill" of the storage water rights for on-stream reservoirs in Basins 01, 21 and 25 that have arisen in various SRBA proceedings including but not limited to subcase nos. 01-2064, 01-2068, and 00-91017, and issues reserved under paragraph 11 of the *Stipulation* of September 25, 2012 "concerning a 'refill' remark" and "any issues arising in the Basin Wide 17 proceeding."<sup>2</sup>

2. The proposed partial decrees set forth in Attachment A to this stipulation will be submitted as a full and final resolution of the following storage water right claims filed by the United States Bureau of Reclamation ("USBR"):

01-10622 (Lake Walcott)  
01-10620 (American Falls)  
01-10621A (Palisades)  
01-10621B (Palisades)  
01-10623 (Jackson Lake)  
21-13161 (Island Park)

3. The proposed recommendations set forth in Attachment B to this stipulation will be submitted as Director's recommendations for the following storage water right claims filed by the USBR and North Fork Reservoir Co.:

21-13193 (Henry's Lake)

---

<sup>1</sup> The Director and the Idaho Department of Water Resources are not "parties" to the Snake River Basin Adjudication but the Director is included, acting for the Department, as a bound signatory to this stipulation as the Director is vested with the direction and control of the distribution of water from all natural water sources within a water district pursuant to Idaho Code § 42-602.

<sup>2</sup> *Stipulation, Subcase Nos. 01-219, et al. (Sep. 25, 2012)*, at 6-7.



21-13194 (Grassy)  
25-14413A (Ririe)  
25-14413B (Ririe)

The Parties agree not to object to the Director's recommendations for these water rights and agree the water rights should be decreed as recommended.

4. The water right claims and recommendations identified in paragraphs 2 and 3 above are collectively referenced as "Enlargement Storage Water Rights."

5. The following storage water right claims filed by the Surface Water Coalition<sup>3</sup> will be decreed disallowed by the SRBA District Court:

01-10614 (Jackson Lake)  
01-10615 (Palisades)  
01-10616 (American Falls)  
01-10617 (Lake Walcott)  
01-10618 (American Falls)

6. Storage water rights nos. 01-219 (Lake Walcott), 01-2064 (American Falls), 01-10042 (American Falls), 01-2068 (Palisades), 01-10043 (Palisades), 01-4055 (Jackson Lake), 01-10044 (Jackson Lake), 01-10045 (Jackson Lake), 21-2156 (Island Park), 21-10560 (Island Park), 21-4155 (Grassy Lake), 21-2154 (Henry's Lake), 21-2161 (Henry's Lake), 21-12946 (Henry's Lake), and 25-7004 (Ririe) are the licensed and decreed storage water rights for the parenthetically-identified reservoirs, and are referenced herein as the "Base Storage Water Rights," to distinguish them from the "Enlargement Storage Water Rights" for the same reservoirs, which are identified above in paragraphs 2 and 3.

7. Partial decrees have been entered for the Base Storage Water Rights for Henry's Lake. These partial decrees should be modified to include in their "Quantity" elements the same

---

<sup>3</sup> For purposes of this stipulation, the "Surface Water Coalition" consists of: A&B Irrigation District, American Falls Reservoir District No. 1, American Falls Reservoir District No. 2, Burley Irrigation District, Falls Irrigation District, Hillsdale Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company. *Memorandum In Support Of Motion To File Late Notices Of Claims, Subcase Nos. 01-10614, 01-10615, 01-10616, 01-10617, 01-10618 and 01-10619* (Jan. 11, 2013).

combined volume limitation remark that appears in the "Quantity" element of the Enlargement Storage Water Right for Henrys Lake (21-13193). The proposed partial decrees for the Henrys Lake Base Storage Water Rights as so modified and a proposed motion to set aside the decrees are attached hereto in Attachment C.

8. Partial decrees should be entered for the remaining Base Storage Water Rights as set forth in Attachment D hereto.

9. If partial decrees are entered for the Base Storage Water Rights and the Enlargement Storage Water Rights as proposed in Attachments A, B, C, and D hereto (collectively and individually, the "Storage Water Rights"), all natural flow arising upstream from the decreed point of diversion of a Storage Water Right, after subtracting the natural flow delivered to water rights with identical or earlier priorities, will be accrued<sup>4</sup> towards the annual volume set forth in the "Quantity" element of the Storage Water Right, except as otherwise provided by the condition under the "Quantity" element of water right numbers 01-10621B (Palisades) and 25-14413B (Ririe) providing for the opportunity to "stop and start" the accrual of water. The amount of water accrued towards the annual volume set forth in the "Quantity" element of a Storage Water Right will not be determined or adjusted on the basis of reservoir contents or on the basis of releases of water from the reservoir(s).

10. Water accrued to the Enlargement Storage Rights shall be allocated to federal contractors and to uncontracted space in reservoirs that store water for distribution pursuant to water right nos. 1-219, 1-2064, 1-2068, 1-4055, 1-10042, 1-10043, 1-10044, 1-10045, 21-2154, 21-2156, 21-2161, 21-4155, 21-10560, 21-12946, and 25-7004.

---

<sup>4</sup> The term "accrued" as used herein and in the proposed partial decrees attached hereto refers to accounting accruals rather than to increases in the volume of water physically stored in the reservoir(s). Water that is "accrued" towards the annual volume of a Storage Water Right is water that has been "counted" or "credited" for purposes of accounting for the distribution of natural flow to the Storage Water Right in accordance with its decreed elements.

11. The priority date of the Enlargement Storage Water Rights shall not affect the allocation of storage water between reservoirs.

12. Pursuant to Idaho Rule of Evidence 408, nothing in the Stipulation, including the stipulated entry of Partial Decrees or other evidence or pleading submitted or relied upon for approval of the Stipulation, or any offers or compromises made in the course of negotiating the Stipulation, shall be construed as admissions against interest or tendered or used as evidence to support or oppose any party's claims or objections in the SRBA or in any other adjudication involving claims for the same or similar purposes, including the quantities of water claimed, or in any other manner by any party in the SRBA in any future proceeding, other than those for interpretation, enforcement or administration of the Stipulation or the Partial Decrees or for a purpose contemplated by Rule 408.

13. Each of the undersigned represent that they are authorized to execute this Stipulation on behalf of the entity they represent.

14. Nothing in this Stipulation shall be construed as creating liability against the United States for any claims related to or arising from flood control releases.

15. This Stipulation may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

16. This Stipulation shall become effective after execution by all signatories.

///

///

///

///

///

FREMONT-MADISON ET AL.  
RIGBY ANDRUS & RIGBY CHTD.

 1-27-15

Jerry R. Rigby Date  
Attorney for Fremont-Madison Irrigation  
District, Idaho Irrigation District, North Fork  
Reservoir Company and Blackfoot Irrigation  
Company



FLETCHER LAW OFFICE



1-28-15

W. Kent Fletcher      Date  
Attorney for Minidoka Irrigation District  
and American Falls Reservoir District No. 2

UNITED STATES DEPT. OF JUSTICE



11/16/15

David Gehlert  
Attorney for United States  
Bureau of Reclamation

Date

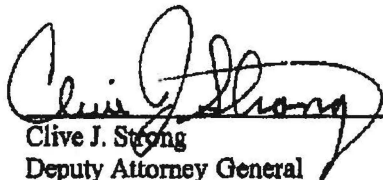
**BARKER RSHOLT & SIMPSON LLP**



1/28/15

John K. Simpson Date  
Attorney for A&B Irrigation District, Burley  
Irrigation District, Hillsdale Irrigation  
District, North Side Canal Company,  
Twin Falls Canal Company, American Falls  
Reservoir District #1, Falls Irrigation District,  
Milner Irrigation District

IDAHO ATTORNEY GENERAL'S OFFICE



Clive J. Strong  
Deputy Attorney General  
Attorney for State of Idaho

1/29/15  
Date



**RACINE OLSEN NYE BUDGE & BAILEY**

 1-26-2015  
T.J. Budge Date

Attorney for Aberdeen American Falls  
Groundwater District, Bingham  
Groundwater District, Bonneville  
Jefferson Groundwater District,  
Carey Valley Groundwater District,  
Jefferson Clark Groundwater District,  
Madison Groundwater District,  
Magic Valley Groundwater District,  
North Snake Groundwater District.

WHITE & JANKOWSKI



1-27-15

Sarah Klahn  
Attorney for City of Pocatello

Date

IDAHO DEPARTMENT OF WATER RESOURCES

 1/29/2015

Gary Spackman

Date

Director

Idaho Department of Water Resources

RECEIVED

MAY 16 2017

DEPARTMENT OF  
WATER RESOURCESSTATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**APPLICATION FOR PERMIT**  
To appropriate the public waters of the State of Idaho63-34403  
RECEIVED

MAY 17 2017

WATER RESOURCES  
WESTERN REGION

1. Name of applicant(s) Cat Creek Energy, LLC Phone 406-459-3013  
 Name connector (check one): ☐ and ☐ or ☐ and/or  
 Mailing address 398 S. 9th, Suite 240 City Boise  
 State ID Zip 83702 Email jcarkulis@exergydevelopment.com
2. Source of water supply South Fork Boise River which is a tributary of Boise River
3. Location of point(s) of diversion:

TWP	RGE	SEC	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
1N	9E	26			SW	NW	Elmore	South Fork Boise River	
					SE	NW	"	"	
					SW	NE	"	"	

4. Water will be used for the following purposes:
- Amount 9,996 cfs for Diversion to Storage purposes from 1/1 to 12/31 (both dates inclusive)  
 (cfs or acre-feet per year)
- Amount 101,352 af for Power Storage purposes from 1/1 to 12/31 (both dates inclusive)  
 (cfs or acre-feet per year)
- Amount 100,000 for Power from Storage purposes from 1/1 to 12/31 (both dates inclusive)  
 (cfs or acre-feet per year)
- Amount ~~9,996 cfs~~ for ~~Flood Protection~~ purposes from ~~1/1~~ to ~~12/31~~ (both dates inclusive)  
 (cfs or acre-feet per year)
5. Total quantity to be appropriated is (a) 9,996 cubic feet per second (cfs) and/or (b) 101,352 acre feet per year (af).
6. Proposed diverting works:

- a. Describe type and size of devices used to divert water from the source. Pump in Anderson Ranch Reservoir, penstock to Upper Reservoir
- b. Height of storage dam 100 feet; active reservoir capacity 100,000 acre-feet; total reservoir capacity 100,000 acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 11. For dams 10 feet or more in height OR reservoirs with a total storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☒ Yes ☐ No
- c. Proposed well diameter is \_\_\_\_\_ inches; proposed depth of well is \_\_\_\_\_ feet.
- d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☐ No
- e. If well is already drilled, when? \_\_\_\_\_; drilling firm \_\_\_\_\_; well was drilled for (well owner) \_\_\_\_\_; Drilling Permit No. \_\_\_\_\_.

7. Description of proposed uses (if irrigation only, go to item 8):
- a. Hydropower; show total feet of head and proposed capacity in kW. 600 MW
- b. Stockwatering; list number and kind of livestock. \_\_\_\_\_
- c. Municipal; complete and attach the Municipal Water Right Application Checklist.
- d. Domestic; show number of households \_\_\_\_\_
- e. Other; describe fully. Flood protection coordinated with BoR and USACE.  
Z-Burn as attorney for Cat Creek Energy, LLC



8. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
1N	9E	26			P				P	P			PS						
1N	9E	35	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	
		36		PS	PS		PS	PS	PS	PS	PS	PS	PS	PS		PS			
1S	9E	02	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS		PS	PS		
		01					PS	PS	PS										

Total number of acres to be irrigated: 0 <sup>11</sup> <sub>PS</sub> <sup>PS</sup> <sub>PS PS</sub>

9. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping?

None

10. a. Who owns the property at the point of diversion? U.S. Government
- b. Who owns the land to be irrigated or place of use? Applicant has a lease with property owner Wood Creek Ranch LLC
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:

11. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. Submitted via email.

~~See attached.~~ Note: This application is subordinate to first and second fill of existing reservoirs in the Boise River Basin.

Consultant Contact: Idaho Water Engineering LLC Dave Tuthill  
2918 N El Rancho Pl. 208-870-0345  
Boise ID 83704 dave@idahowaterengineering.com

12. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).
13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8 1/2" x 11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

John Faulkner  
 Signature of Applicant  
Cat Creek Energy LLC  
John Faulkner Manager  
 Print Name (and title, if applicable)

Signature of Applicant

Print Name (and title, if applicable)

Received by VC Date 5/16/17 Time 2:56 Preliminary check by VC  
 Fee \$ 2560200 Received by VC Receipt No. C1035400 Date 5/16/17  
 # 25602

63-34403



# Cat Creek Energy LLC Map

01N09E27

01N09E28

⊗ = PD

01N09E34

01N09E35

01N09E36

01N10E31

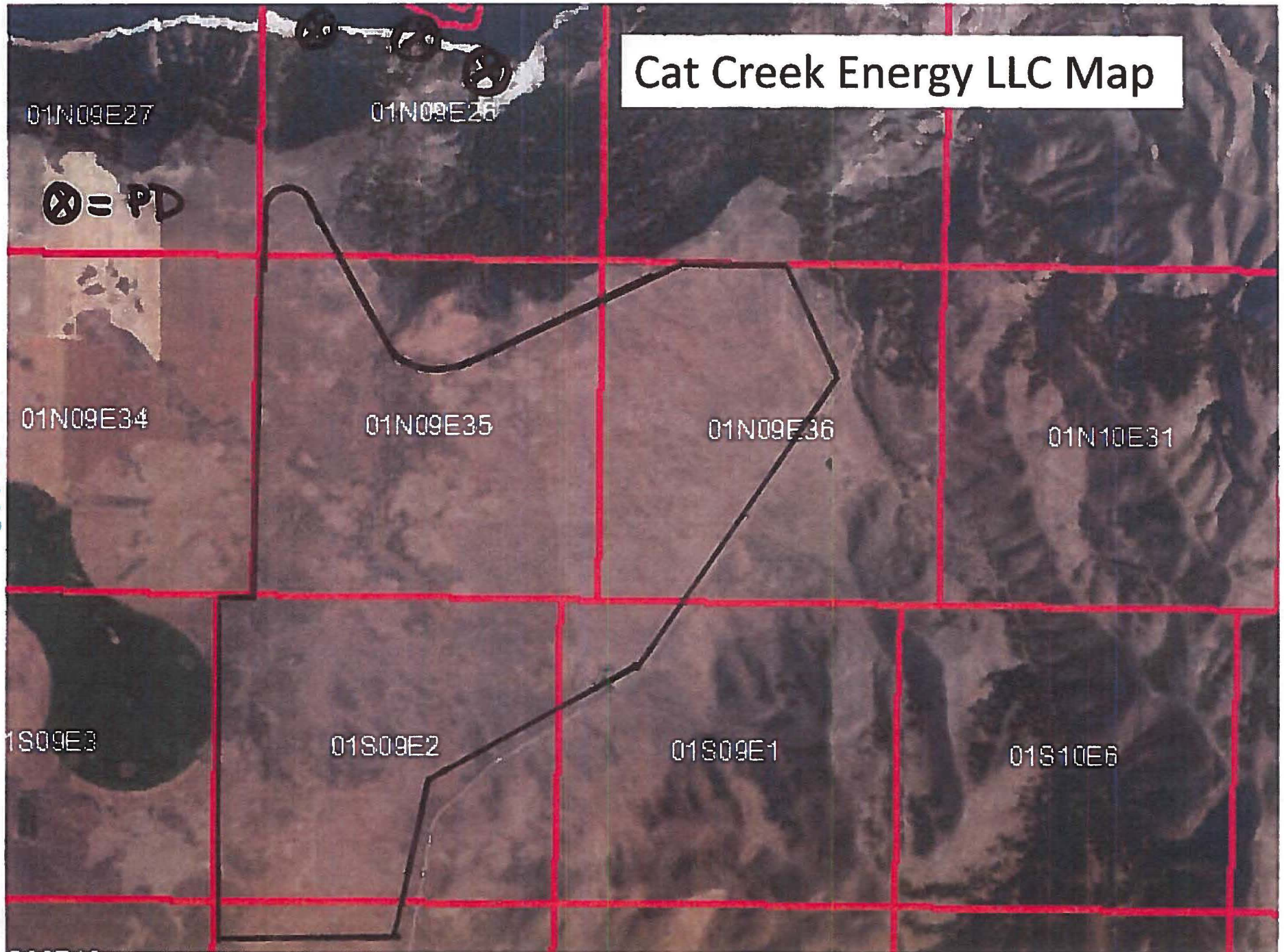
1S09E3

01S09E2

01S09E1

01S10E6

63-34303



FILED EFFECTIVE



# CERTIFICATE OF ORGANIZATION LIMITED LIABILITY COMPANY

(Instructions on back of application)

2013 MAY 14 AM 8:51

SECRETARY OF STATE  
STATE OF IDAHO

1. The name of the limited liability company is:

CAT CREEK ENERGY, LLC

2. The complete street and mailing addresses of the initial designated office:

1989 South 1875 East, Gooding, Idaho, 83330

(Street Address)

(Mailing Address, if different than street address)

3. The name and complete street address of the registered agent:

John Faulkner

(Name)

1989 South 1875 East, Gooding, ID 83330

(Street Address)

4. The name and address of at least one member or manager of the limited liability company:

Name

Address

John Faulkner

1989 South 1875 East, Gooding, ID 83330

5. Mailing address for future correspondence (annual report notices):

1989 South 1875 East, Gooding, ID 83330

6. Future effective date of filing (optional):

Signature of a manager, member or authorized person.

Signature

Typed Name: JOHN FAULKNER

Signature

Typed Name:

 IDAHO SECRETARY OF STATE  
 05/14/2013 05:00  
 CK: 134888 CT: 62575 BH: 1373700  
 1 @ 100.00 = 100.00 ORGAN LLC # 2

 IDAHO SECRETARY OF STATE  
 05/14/2013 05:00  
 CK: 63175 CT: 89379 BH: 1373703  
 1 @ 20.00 = 20.00 EXPEDITE C # 2

63-34403

W125202



## SEEPAGE CALCULATIONS

This spreadsheet has been designed by Idaho Department of Water Resources to estimate the total annual seepage losses from a pond.

FILE NUMBER	Cat Creek Energy
REVIEWER	
DATE	

User Input
Calculated value
Formula Explanations

### INPUTS

SQ. FT. Calculator
Pond Surface area in acres
1573

POND SURFACE AREA (SQ. FT.)	68519880
-----------------------------	----------

SUGGESTED SEEPAGE RATE (FT/DAY)	0.0000
---------------------------------	--------

Use the table below to find the "SUGGESTED SEEPAGE RATES".

FORMULA:
(Surface Area X Seepage Rate) / 7.48 = Gallons Per Day loss

CONVERT TO GPD	0	GPD
----------------	---	-----

TOTAL SEEPAGE LOSS (AFA)	0.0	AFA
--------------------------	-----	-----

SUGGESTED SEEPAGE RATES FOR DIFFERENT SOIL TYPES:
GW, GP, GM, GC, SW, SP and SM (silty sand, sand silt mixtures and gravel mixtures) = 0.20 ft per day
OL and ML (inorganic silts - very fine sands, silty, or clayey fine sands) = 0.016 ft per day
SC (clayey sands, sand clay mixtures) = 0.007 ft per day
CL (Low to medium plasticity clays) = 0.003 ft per day
MH, OH, PT and CH (high plasticity clays) = 0.0003 ft per day
LINED PONDS (liners can be chemical, fabric, or bentonite) = 0 ft per day
Ponds Intercepting Groundwater (excavated ponds filled with shallow Ground Water) = 0 ft per day

**PLEASE NOTE:** The initial basis for the Suggested Seepage Rates in the table above is found on Page 16 of Seepage from Fish Ponds, Bulletin 599, August 1989 Alabama Agricultural experiment Station, Auburn University, Auburn University Alabama. If you don't know the soil type, please refer to the map provided at X:\Spatial\Soils\USCS\PondSoils.lyr. Use "0" if the ponds intersect the water table.

# Evaporation Loss Calculation

FILE NUMBER	Est Creek Energy
REVIEWER	
DATE	

This spreadsheet has been designed by Idaho Department of Water Resources to estimate the annual evaporation losses from a pond.

The acronyms used on the Kimberly Research Center website are defined below:

P = Precipitation  
 ET = Evapotranspiration  
 P<sub>d</sub> = Precipitation deficit  
 P<sub>d</sub> = ET - P

User Input
Calculated value
Formula Explanations

## USING THIS SPREADSHEET

To ascertain the evaporation from a pond, you will need to go to the Kimberly Research Center website. The link is found below. This web site provides the Precipitation Deficit for the area where the pond is located. The Precipitation Deficit is the total amount of free pan evaporation minus the precipitation for a given area, which gives the total amount of evaporative losses incurred by the pond. There are several weather sites that are used, and the entire state is pretty much covered. IDWR staff can find the nearest site using Arc Map. The shape file containing the sites can be found at X:/Spatial/Climate/ETIdahostations.shp.

Found at: <http://www.kimberly.uidaho.edu/ETIdaho/online.php>

## Precipitation Deficit

Station: Fairfield

Month	mm/day <sup>1</sup>	Days per month	mm/Month
Jan	0.00	31	0.00
Feb	0.00	28	0.00
March	0.00	31	0.00
April	0.46	30	13.80
May	0.96	31	29.76
June	1.21	30	36.30
July	1.78	31	55.18
August	1.69	31	52.39
September	1.23	30	36.90
October	1.22	31	37.82
November	0.00	30	0.00
December	0.00	31	0.00

**PLEASE NOTE:** We cannot use the season average, because there are several areas in Northern Idaho with a negative Precipitation Deficit. Therefore, we must enter each monthly deficit, and enter in a zero (0) for each negative month. The reason for this is that precipitation can only offset evaporation to the extent of the evaporation.

Please enter the daily average Precipitation Deficit as shown in the example below.

Although it has sometimes been useful to consider wintertime evaporation to be zero, Allen and Robison (2007, p. 169) noted, "Evaporation during nongrowing (wintertime) periods varies widely . . . ."

<sup>1</sup>Negative monthly mean values should be entered in the above table as "0".

Total mm/year = 262.15

$$((\text{mm/yr}) \div (\text{convert to feet})) \times (\text{Surface area of pond, in acres}) = \text{Evaporation Loss in Acre Feet}$$

( 262.15 ÷ 304.8 ) X 1573.00 = 1352.9 AFA

Surface Area of Pond is automatically Carried over from the Seepage Loss Sheet.



## TOTAL STORAGE

FILE NUMBER	On Coast Energy
REVIEWER	
DATE	

This spreadsheet has been designed by Idaho Department of Water Resources to estimate the total seepage, evaporation and fill capacity required for a pond

Surface Area (In Acres)	15.74	"Surface Area" is automatically carried over from the "Seepage Loss Sheet"
Average Pond Depth (In feet)	63.5727908	"Average Pond Depth" depicts the actual depth of the pond either measured or estimated. Note: If you know the maximum depth and not the average depth, the field examiner's handbook suggests multiplying the maximum depth by 0.4 to get the average depth, or you can use any method that you know the capacity, divide the capacity by surface area and enter the average pond depth in the space above.
Pond Capacity (In acre feet)	9999.9999	

Volume Needed Above Initial Fill to Fulfill From Storage Needs- "Multiple Fills" (In acre feet)	0	The "Volume Needed Above Initial Fill" is the acre-feet of water required to meet <i>from storage</i> component if the <i>from storage</i> component exceeds a one time fill. This section should not include the amount of water needed to fill the pond initially or the amount of water needed to maintain the pond level due to evaporation or seepage. For example: If a pond has a capacity of 5 acre feet and 2.5 acre feet of seepage and evaporation, but the pond is used for irrigation that requires 10 acre feet of from storage for the irrigation use, then you would insert 5 acre feet into this location (10 acre feet needed - 5 acre feet from the initial fill = 5 acre feet of additional storage needed). PLEASE NOTE: You must have a "From Storage" component exceeding the initial fill on the permit to include a volume in this space.
Estimated Seepage Loss (In acre feet)	0.0	The "Estimated Seepage Loss" is automatically carried over from the Seepage Loss Sheet
Estimated Evaporation Loss (In acre feet)	1332.9	The "Estimated Evaporation Loss" is automatically carried over from the Evaporation Loss Sheet
Total Volume Required (In acre feet)	201332.9	"The Total Volume Required" is calculated by adding the Pond Capacity, Multiple Fills, Seepage Loss, and Evaporation Loss amounts to determine the total amount of storage required.

Flow Rate Into Pond (In cfs)	10000.00	The "Flow Rate" into the Pond depicts the actual flow either measured or estimated into the pond.
Highest Daily Evaporation Rate From Evaporation Tab. (In mm/day)	1.78	This number is automatically selected by picking the highest recorded number in the "Precipitation Deficit Table".
Maximum Required Daily Maintenance Volume (In acre feet per day)	5.34	"Maximum Required Daily Maintenance Volume" is the maximum volume of water needed on any given day during the year, and is calculated by adding the highest daily evaporation loss to the average daily seepage loss in acre feet. The average daily seepage loss is calculated by dividing the "Estimated Seepage Loss" by 365 days. This is acceptable, since the seepage rate shouldn't vary throughout the season unless the pond completely freezes over during the winter months. The highest daily evaporation loss is calculated by dividing the Highest Daily Evaporation Rate by the 304.8 conversion factor and multiplying this number by the pond surface area to attain a combined daily acre feet requirement.
Minimum Maintenance Flow (In cfs)	4.83	The "Minimum Maintenance Flow" is the minimum amount of flow required to maintain the level of the pond. This number is determined by dividing the "Maximum Required Daily Maintenance Volume" by 1.9835. This flow can be used to determine if the flow rate into the pond is adequate to maintain the pond level.
Days Required to Fill the Pond	5	The "Days Required to Fill the Pond" is calculated by dividing the "Pond Capacity" by the "Flow Rate" minus "Minimum Maintenance Flow" multiplied by 1.9835. This section will assist you in determining if the flow rate being diverted to the pond is adequate to fill the pond while maintaining the pond level. The length of time to fill the pond will help determine if the flow rate is adequate for the size of pond being proposed. This number should be between 1 and 365 days for a project to be successful.
Days Required to Fill the Pond at 13,000 gallons per day		The "Days Required to Fill the Pond at 13,000 gallons per day" is calculated converting the "Pond Capacity" and the "Maximum Daily Maintenance Volume" to gallons. The "Pond Capacity" is then divided by 13,000 gallons minus the "Maximum Daily Maintenance Volume" in gallons to determine the number of days to fill pond. This number should be between 1 and 365 if this pond is to be described as a domestic use.

User Input
Calculated Values
Formula Explanations





Cat Creek Energy: Evolution or Revolution

## Cat Creek Energy & Water Storage Renewable Power Station

### Generation Trybrid

**750 MW Nameplate Capacity**

**600 MW Pump Storage Hydro**

**110 MW Wind Power**

**40 MW PV Solar**

### Ultimate Battery

**54,400 MWhrs of Energy Storage**

### Grid Support

**370 MW of Ancillary Services capability**

### Interconnection

**230 kV Idaho Power grid**

**500 kV PacifiCorp grid**

### Beneficial Water Storage

**100,000 acre-ft Reservoir**

### Land Ownership

**Fee Simple Private**

### Scheduled COD

**Calendar Year 2020**

**Cat Creek Energy, LLC**

398 S. 9th Street  
Suite 240  
Boise, Idaho 83702

Phone: 208.336.1370  
Fax: 208.954.5099  
E-mail: [info@ccewsrps.net](mailto:info@ccewsrps.net)

The Cat Creek Energy & Water Storage Renewable Power Station represents the next revolution in transforming America's electrical energy resource base. High on the bluff 840 feet above the Anderson Ranch Reservoir in southern Idaho, the CCE facility integrates renewable energy components to create a more efficient, dependable, and robust form of firm, baseload electricity all the while providing the full range of the ancillary services to support increasingly arduous security and reliability transmission grid regulations. Moreover, the Cat Creek facility provides crucial water storage capacity for the Boise River Basin, whose current storage capacity for agricultural, municipal, environmental, and recreational demands is already stressed.

Cat Creek disrupts all the entrenched beliefs about renewables and hydro in the energy sphere. No longer are intermittent resources undependable. No longer do intermittent renewable resources need load following by fossil fuel generators. No longer does hydro rely on cycling water only once through its turbines. No longer does new hydropower conjure up the notion of an environmental calamity.

Cat Creek takes 38 balancing authorities in the West and synthesizes their operations through regulation and energy time shift management into one seamless grid operation.

Its as simple as flipping a switch.



Location of Upper Reservoir

No. <b>W 125202</b>	<b>Due no later than May 31, 2017</b> <b>Annual Report Form</b>		2. Registered Agent and Address <b>(NO PO BOX)</b>			
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080  <b>NO FILING FEE IF RECEIVED BY DUE DATE</b>			JOHN FAULKNER 1989 S 1875 E GOODING ID 83330			
		3. <u>New</u> Registered Agent Signature:*				
4. Limited Liability Companies: Enter Names and Addresses of at least one Member or Manager.						
Office Held MANAGER	Name JOHN L FAULKNER	Street or PO Address 1851 US HWY 26	City GOODING	State ID	Country USA	Postal Code 83330
5. Organized Under the Laws of:  <b>ID</b> <b>W 125202</b>		6. Annual Report must be signed.* Signature: JOHN L. FAULKNER Name (type or print): JOHN L. FAULKNER Date: 03/23/2017 Title: MANAGER				
Processed 03/23/2017		* Electronically provided signatures are accepted as original signatures.				

63-34403