



U.S. Department of Justice

Environment and Natural Resources Division

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Carter Fritschle
Manager, Adjudication Section
Idaho Dept. of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

VIA ELECTRONIC MAIL

Re: Additional information regarding claims 01-10620, 01-10621, 01-10622, 01-10623, 21-13161, 37-22806, 63-33732, 63-33733, 63-33734, 65-23531 and 65-23532.

Dear Carter:

Thank you for your letter of July 10, 2103 requesting additional information evidencing the diversion to storage and beneficial use of the released storage water. I hope that this response will provide some clarity on both subjects.

Diversion to storage

You are correct that the amount of water we have claimed as diverted is the volume of water that flowed through the reservoirs in the listed year. We understand from both the State's briefing in the SRBA and Director Spackman's letter of May 1, 2013 to the Chairman of the Boise Project Board of Control that under the Department's accounting system, the entire natural flow of the stream is considered to have been diverted and stored and to be subject to controlled release by the reservoir operator. In order to be consistent with that approach, we have claimed the entire natural flow in a given year as the quantity diverted. If we have erred in understanding the Department's accounting system, please advise.

Beneficial use

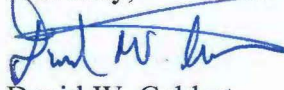
As you no doubt know, the United States has partial final decrees for all of Reclamation's reservoirs, save for those in the Upper Snake Basin, and the quantity element of the storage rights for the Upper Snake reservoirs is not in dispute. Therefore we assume that the Department is comfortable that there is adequate beneficial use to support the quantity of the present storage rights for all of Reclamation's reservoirs.

We filed supplemental storage claims because the practical effect of the combination of the Department's accounting and Reclamation's flood control operations is that in some years the quantity of water stored on paper under Reclamation's existing storage water rights exceeds the quantity of water physically stored. The intent of supplemental storage rights is to establish a priority, in a manner consistent with our understanding of the present accounting system, for a "refill" in years where water has been vacated for flood control purposes and to enhance Reclamation's ability to close the gap between the "paper fill" and the "physical fill," at least in years when water is available to the priority of the supplemental storage right.

Importantly, although quantities claimed as diverted are large, we are not seeking the ability to retain in storage all of the water diverted. The claims include a combined use remark which restricts the total quantity of water able to be stored in a given reservoir to the quantity of that reservoir's existing storage right. Because we are not seeking to store any more water than we already have a right to, the supplemental storage claims are supported by the same beneficial use supporting Reclamation's existing storage water rights.

Thank you for your time and attention to this matter.

Sincerely,



David W. Gehlert
Trial Attorney