

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

2ND AMENDED

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

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

AUG 16 2017

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

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

Tributary: COLUMBIA RIVER
Tributary: MALAD RIVER
Tributary: SNAKE RIVER
Tributary: SNAKE RIVER
Tributary: SNAKE RIVER
Tributary: SNAKE RIVER
Tributary: SNAKE RIVER

Clerk
Deputy Clerk

QUANTITY: 1460.00 CFS

PRIORITY DATE: 04-17-1900

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

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

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

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

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

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

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

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

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

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

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

PURPOSE AND
PERIOD OF USE:

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

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

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

PLACES OF USE:

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

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

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

2. The "Murphy Gaging Station" (U.S. Geological Survey gage no. 13172500) is located on the right bank of the Snake River at river mile 456.8, approximately 8.5 miles east-northeast of Murphy, Idaho and 0.9 miles downstream from the Swan Falls power plant at latitude 43° 15' 17.33" N, longitude 116° 23' 26.30" W, North American Datum of 1983, in the NW ¼ of the NW ¼ of section 18, T.2S., R.1E., Boise Meridian, Hydrologic Unit 17050103.

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

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

4. This water right is subordinate to all water rights diverting water from the Snake River and surface and groundwater sources tributary to the Snake River, with a priority date senior to October 25, 1984, unless otherwise indicated on the face of individual water rights.

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

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

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



ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

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



ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication