

October 1, 2004

Diana Delaney
Case Administrator of the District Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, Idaho 83303-2707

Re: Corrections to Attachments to the *Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decrees*, and *Standard Form(s) 4- Motions to File Late Claims*, Hells Canyon National Recreation Area, Subcase Number 79-13597 (encompassing 79-14054 through 79-14079 and to further encompass and be consolidated with Subcases 78-12200 through 78-12205).

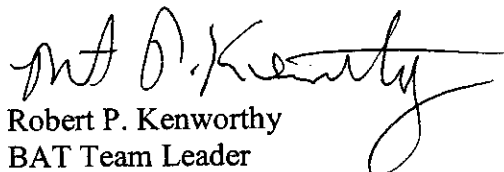
Dear Diana:

Enclosed are corrected attachments to the *Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decrees* for the Hells Canyon National Recreation Area that the United States filed on August 20, 2004. Included are corrected proposed partial decrees for the lakes (Attachments 15 through 32), and 6 corrected late claims for the *Standard Form(s) 4 - Motions to File Late Claims* (78-12200 through 78-12205). Also enclosed are the corrected late claims for Attachments 33 through 38 (copies of the SF4's).

The correction is to the datum associated with the GPS coordinates (UTMs) for the bench marks associated with each lake level.. It should be NAD 27 rather than NAD 83.

Please feel free to give me a call (208-331-5905) if you have any questions.

Sincerely,



Robert P. Kenworthy
BAT Team Leader
USDA Forest Service

cc: Parties listed on the certificate of mailing for HCNRA Claims

Enclosure(s)

CORRECTIONS TO
ATTACHMENTS 15 THROUGH 32

ATTACHMENT 17

**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)
)
_____)

**PARTIAL DECREE FOR
Federal Reserved Water Right 79-14070
Hells Canyon National Recreation Area**

- 1. Name and address of owner:** UNITED STATES OF AMERICA, on behalf of the
U.S.D.A. Forest Service
550 W. Fort Street, MSC033
Boise, ID 83724
- 2. Source of water:** Bernard Lake
- 3. Quantity of right:**
- a. This water right establishes the lake level of Bernard Lake at 101.19 feet referenced to Bernard BM1 (Elevation 100 feet) located at X=532976, Y=5023600 (UTM Zone 11 North NAD 27)
- b. This water right precludes any diversion of water out of the watershed of Bernard Lake upstream from the point of diversion, except for transfers of point of diversion from above the lake to below the lake.
- 4. Priority date:** December 31, 1975.
- 5. Point of diversion:** The projection of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, of unsurveyed Sec. 4, T23N, R2W, Boise Meridian.
- 6. Purpose of use:** To fulfill the purposes of the Hells Canyon National Recreation Area Act, Pub.L. 94-199, 89 Stat. 1117, Dec. 31, 1975 (codified at 16 U.S.C. § 460gg).
- 7. Period of use:** 01-01 to 12-31.

8. Place of use:

Note: Tracts are projections in unsurveyed sections.

TWP	RGE	SEC	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
23N	2W	3						X										
23N	2W	4	X															

9. Annual volume of consumptive use:

This lake level maintenance water right is non-consumptive (other than evaporation and evapotranspiration which may take place from the lake).

10. Other provisions necessary for definition or administration of this water right:

a. This is a federal reserved water right based on the Hells Canyon National Recreation Area Act, Pub.L. 94-199, 89 Stat. 1117, Dec. 31, 1975 (codified at 16 U.S.C. § 460gg).

b. This Partial Decree is entered pursuant to the Stipulation between the United States, the State of Idaho, and Idaho Power Company effective September 1, 2003 ("the Stipulation"), and pursuant to that Stipulation this water right is subordinated to the following water rights and uses that are junior to this federal reserved water right and that have points of diversion or impoundment and places of use within the Bernard Lake basin upstream from the point of diversion, identified for the lake in element 5 above:

(1) All water right claims filed in the Snake River Basin Adjudication (SRBA) as of the effective date of the Stipulation to the extent ultimately decreed in the SRBA.

(2) All applications for permit and permits with proof of beneficial use due after November 19, 1987, on file with IDWR as of the effective date of the Stipulation, to the extent such applications for permit or permits are ultimately licensed; and all water right licenses with proof of beneficial use due after November 19, 1987, on file with IDWR as of the effective date of the Stipulation.

(3) All domestic uses, which for purposes of this Partial Decree shall be defined as set forth at I.C. § 42-111(1)(a) & (b) to mean the use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half acre of land, if the total use is not in excess of thirteen-thousand (13,000) gallons per day or any other uses, if the total does not exceed a diversion rate of four one-hundreds (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day, provided that this domestic use subordination is limited and defined by I.C. § 42-111(2), so that the subordination shall not and does not apply to multiple ownership subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in I.C. § 42-111(1)(b) (0.04 cfs/2,500 gpd), and by I.C. § 42-111(3), so that the subordination shall not and does not apply to multiple water rights for domestic uses which satisfy a single combined water use that would not itself come within the above definition of domestic use.

(4) All de minimus stockwater uses, which for the purposes of this Partial Decree shall be defined as set forth at I.C. § 42-1401A(11) to mean the use of water solely for livestock or wildlife where the total diversion is not in excess of thirteen-thousand (13,000) gallons per day. This de minimus stockwater use subordination is limited and defined by I.C. § 42-111(3), so that the subordination shall not and does not apply to multiple water rights for stockwater uses which satisfy a single combined water use that would not itself come within the above definition of stockwater use.

c. The administrative provisions of paragraph 3 of the Stipulation are incorporated herein by reference.

d. Information needed to locate the benchmark referenced in element 3.a. above is on file with IDWR.

e. These additional provisions contained in element 10 do not fall within the other elements listed above and are necessary to: (1) define the unique characteristics of these federal reserved water rights; and (2) describe the rights and uses to which these federal reserved water rights are subordinated in order to provide for proper administration of these water rights and other existing and future water rights.

IT IS SO ORDERED.

DATED this _____ day of _____, 2004.

JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication