

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

EXPLANATORY MATERIAL: BASIS OF CLAIM - Statute

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 3-8

WATER RIGHT NUMBER: 3-8

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	STATE OF IDAHO IDAHO WATER RESOURCE BOARD 322 E FRONT ST PO BOX 83720 BOISE, ID 83720-0098 (208)287-4800

Priority Date: 07/01/1985

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
SNAKE RIVER	COLUMBIA RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
MINIMUM STREAM FLOW	1/01 to 12/31	13,000.000 CFS	
	<u>Total Diversion:</u>	13,000.000 CFS	

Location of Point(s) of Diversion

SNAKE RIVER	SW1/4NW1/4NW1/4	Sec. 34, Twp 32N, Rge 05W, B.M.
NEZ PERCE County		
SNAKE RIVER	SE1/4NE1/4NE1/4	Sec. 33, Twp 32N, Rge 05W, B.M.
NEZ PERCE County		

Place of UseMINIMUM STREAM FLOW Within NEZ PERCE County

T32N R05W S33	NENE	T32N R05W S34	NWNW
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Conditions of Approval:

1. Lime Point gage is located at river mile 169.75 (State Water Plan Policy 5A incorrectly identifies the river mile as 172).
This minimum streamflow was created by adoption of the 1985 Idaho State Water Plan. Policy 32 of the plan refers to a federal hydropower licensing condition for Idaho Power rights on the Snake River which may allow reductions in flow below the minimum streamflow.
The point of diversion and place of use (Lime Point Gage) are located on or near the line between SENENE, S33, T32N, R05W and SWNWNW, S34, T32N, R05W.

Remarks:Comments:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 3-8

Dates and Other Information:

Licensed Date:
Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number:
Judicial District:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
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Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
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Water Supply Bank:

1806, on further water development has been in place since May 15, 1992.

5D - SNAKE RIVER BASIN DCMI

It is the policy of Idaho that 150 cfs of the water held in trust by the state above Swan Falls Dam pursuant to Policy 5C be reallocated to meet future domestic, commercial, municipal, and industrial consumptive uses in accordance with state law. Comment: While most DCMI (Domestic, Commercial, Municipal, and Industrial) water uses are negligibly consumptive, future growth in Idaho's population and commercial and industrial expansion will require an assured supply of water.

A continuous flow of 150 cfs provides approximately 108,600 acre-feet of water per year. This volume of water is assigned to consumptive uses within the basin for domestic, commercial, municipal, and other industrial purposes. Industrial purposes include processing, manufacturing, research and development, and cooling.

During the ten-year period from 1985 to 1995, about 120 cfs was developed for DCMI uses within the trust water area. Adequate records should be kept and reviewed so that this allocation can be modified as necessary. Increases in the DCMI allocation, if necessary, will reduce the amount of water available for agricultural uses. The allocation will be reviewed as part of every Water Plan update.

5E - SNAKE RIVER BASIN AGRICULTURE

It is the policy of Idaho that appropriated water held in trust by the state pursuant to Policy 5C, less the amount of water necessary to provide for present and future DCMI uses as set forth in Policy 5D, shall be available for reallocation to meet new and supplemental irrigation requirements which conform to Idaho Code 42-203A, 203B, 203C, and 203D.

Comment: During the ten-year period from 1985 to 1995, about 45,600 acres of new irrigation development occurred within the trust water area. Data are not available to estimate the number of acres that received supplemental water during this period.

Idaho Code Section 42-203C limits the rate of new development in the basin above the Murphy gaging

The Idaho Water Resource Board recognizes that FERC license requirements relate primarily to the provision of water for navigation and power and not to other instream uses. The Board realizes that the state has no authority to require releases of stored water by the power company, but believes the license conditions serve the public interest. When the Hells Canyon hydropower complex is relicensed, the Water Board will reevaluate the public interest.

Snake River flows above the hydropower right at any Idaho Power facility are considered unappropriated and therefore are not held in trust by the state. This distinction is further addressed in Policy 5C.

5C - SNAKE RIVER TRUST WATER

It is the policy of Idaho that water held in trust by the state pursuant to Idaho Code 42-203B be reallocated to new uses in accordance with the criteria established by Idaho Code 42-203A and 42-203C.

Comment: The agreement between the State of Idaho and Idaho Power Company dated October 25, 1984 provides that Idaho Power's claimed water right of 8,400 cubic feet per second (cfs) at the Swan Falls Dam may be reduced to either 3,900 cfs or 5,600 cfs during set periods of the year. The claimed water right of 8,400 cfs is deemed appropriated and the amount above the minimum flow established in Policy 5B up to the 8,400 cfs is held in trust by the state. The trust water area is defined by Rule 30 in the Idaho Department of Water Resources' Rules for Water Appropriation.

The agreement further provides that Idaho Power's claimed water rights at facilities upstream from Swan Falls shall be considered satisfied when the company receives the minimum flow specified in Policy 5B at the Murphy gaging station. The 8,400 cfs claim of the power company has not historically been available during summer months.

The 8,400 cfs claimed right at Swan Falls is reduced by the agreement to that flow available after satisfying all applications or claims that demonstrate water was beneficially used prior to Oct. 1, 1984, even if such uses would violate the minimum flows established in Policy 5B. Any remaining water above these minimum flows may be reallocated to new uses by the state providing such use satisfies existing Idaho law.

However, due to continued spring flow decline in the Thousand Springs area since the late 1950s, water availability to satisfy additional beneficial uses is limited. A moratorium, as defined in Idaho Code 42-

It is the policy of Idaho to quantify all federal and tribal water rights within the state.

Comment: Federal agency and tribal water rights claims in Idaho must be identified and quantified to plan for continued use of existing water rights and future needs. As a part of each effort to identify and quantify federal agency and tribal water rights, the protection of existing water rights must be considered. The State should seek to negotiate these rights whenever appropriate.

Executive Order No. 91-8 designated the Idaho Water Resource Board as lead agency to coordinate state activities related to the negotiation of reserved water rights with Idaho Tribes. The successful negotiations concluded with the Shoshone-Bannock over the Fort Hall water rights serves as an example of a negotiated settlement.

4K - WATER RESOURCE MANAGEMENT

It is the policy of Idaho that the diversion and use of water occur only in accordance with water rights issued by the state and federal reserved rights established by the courts. Adjudication of water rights through the state courts should be completed where necessary to fully define and quantify the rights.**Comment:** The adjudication of water rights is often necessary to sort out overlapping or incomplete claims for the use of surface and ground water resources. These conflicts need to be resolved if the resources are to be managed effectively. Effective programs can then be applied to assure that water is diverted and used in accordance with valid rights.

River Basins Group

The River Basins Group contains resource management policies specific to the state's three major river basin networks: the Snake River Basin, the Bear River Basin in southeast Idaho, and the northern Panhandle river basins.

Snow River Basin

5A - SWAN FALLS AGREEMENT

It is the policy of Idaho that the Swan Falls agreement between the state and Idaho Power Company establishes the framework for water management in the Snake River basin.

Comment: The Swan Falls Agreement was signed in 1985 by the State of Idaho and the Idaho Power Company. The Idaho Water Resource Board is committed to continued implementation of this agreement. Minimum flows in the Snake River are crucial to the Swan Falls Agreement. During portions of low water years, river flows downstream from Milner Dam to Swan Falls Dam consist almost entirely of ground water discharge. The Eastern Snake Plain aquifer which provides this water must therefore be managed conjunctively as an integral part of the river system. This agreement also calls for the adjudication of water rights in the Snake River Basin to enhance the state's water management capabilities.

5B - SNAKE RIVER MINIMUM FLOWS

It is the policy of Idaho that minimum average daily flows at the Murphy gaging station shall meet or exceed 3,900 cfs from April 1 to October 31 and 5,600 cfs from November 1 to March 31. The average daily flow measured at the Weiser gage shall not be less than 4,750 cfs. A minimum average daily flow of 5,000 cfs at Johnson's Bar shall be maintained and an average daily flow of 13,000 cfs shall be maintained at Lime Point (river mile 172) a minimum of 95 percent of the time. The exercise of water rights above Milner Dam has and may reduce flow at the dam to zero.

Comment: In licensing the Milner hydropower project, the Federal Energy Regulatory Commission (FERC) specified "target flows" for the Snake River at Milner. The target flow must be satisfied only when water in excess of prior irrigation rights is available. Water for target flows may be acquired from storage or may be leased from the Upper Snake Rental Pool. The State should seek to acquire water whenever it becomes available in order to mitigate the impacts of low flow below the Dam.

The minimum flows established for the Snake River at the Murphy and Weiser gaging stations are management and permitting constraints; they further insure that the State will be able to assure an adequate hydropower resource base and better protect other values recognized by the State such as fish propagation, recreation, and aesthetic interests, all of which would be adversely impacted by an inadequate stream flow.

The minimum flows established for Johnson's Bar and Lime Point are contained in the original Federal Power Commission (now FERC) license for the Hells Canyon hydropower complex. By adopting these flows, the Idaho Water Resource Board recognizes the importance of minimum flows to downstream uses and makes their maintenance a matter of state water policy. Lower flows may be permitted at Lime Point during the months of July, August, and September, during which time the operation of the Hells Canyon dams shall be in the best interest of power and navigation as determined by the Corps of Engineers and Idaho Power Company as owner of the Hells Canyon power facilities.

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A03-00008
Date Received: 5/22/1988
Receipt No: C002305
Received By: JP 8/22/88

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: STATE OF IDAHO 208-334-7900
Address: IDAHO WATER RESOURCE BOARD
STATEHOUSE
BOISE, ID 83720

2. Date of Priority: JUL 01, 1985

3. Source: SNAKE RIVER Trib. to: COLUMBIA RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
Beginning Point of Minimum Instream Flow							
31N	05W	10	NE	NE		1	NEZ PERCE
Ending Point of Minimum Instream Flow							
31N	05W	10	NE	NE		1	NEZ PERCE

5. Description of diverting works:
NONE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
MINIMUM INSTREAM FLOW	01/01	12/31	13000.000		

7. Total Quantity Appropriated is:
13000.000 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
INSTREAM FLOW

A03-00008

Page 1

Date: 06/30/88

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APR 25 1993

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
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11. Place of use in counties:

12. Do you own the property listed above as place of use? NO

13. Other Water Rights Used:

NONE

14. Remarks:

DECREED BY LEGISLATIVE ADOPTION OF THE STATE WATER PLAN. THE
FLOWS ARE TO BE MAINTAINED 95 PERCENT OF THE TIME.

15. Basis of Claim: DECREED

Water Right Number:

Case Number:

Court :

Decree date:

Decree Plaintiff

vs

Decree Defendant

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 0

For Organizations:

I do solemnly swear or affirm that I am Chairman of IWRB, that I have signed the foregoing document in the space below as Chairman of IWRB and that the statements contained in the foregoing document are true and correct.

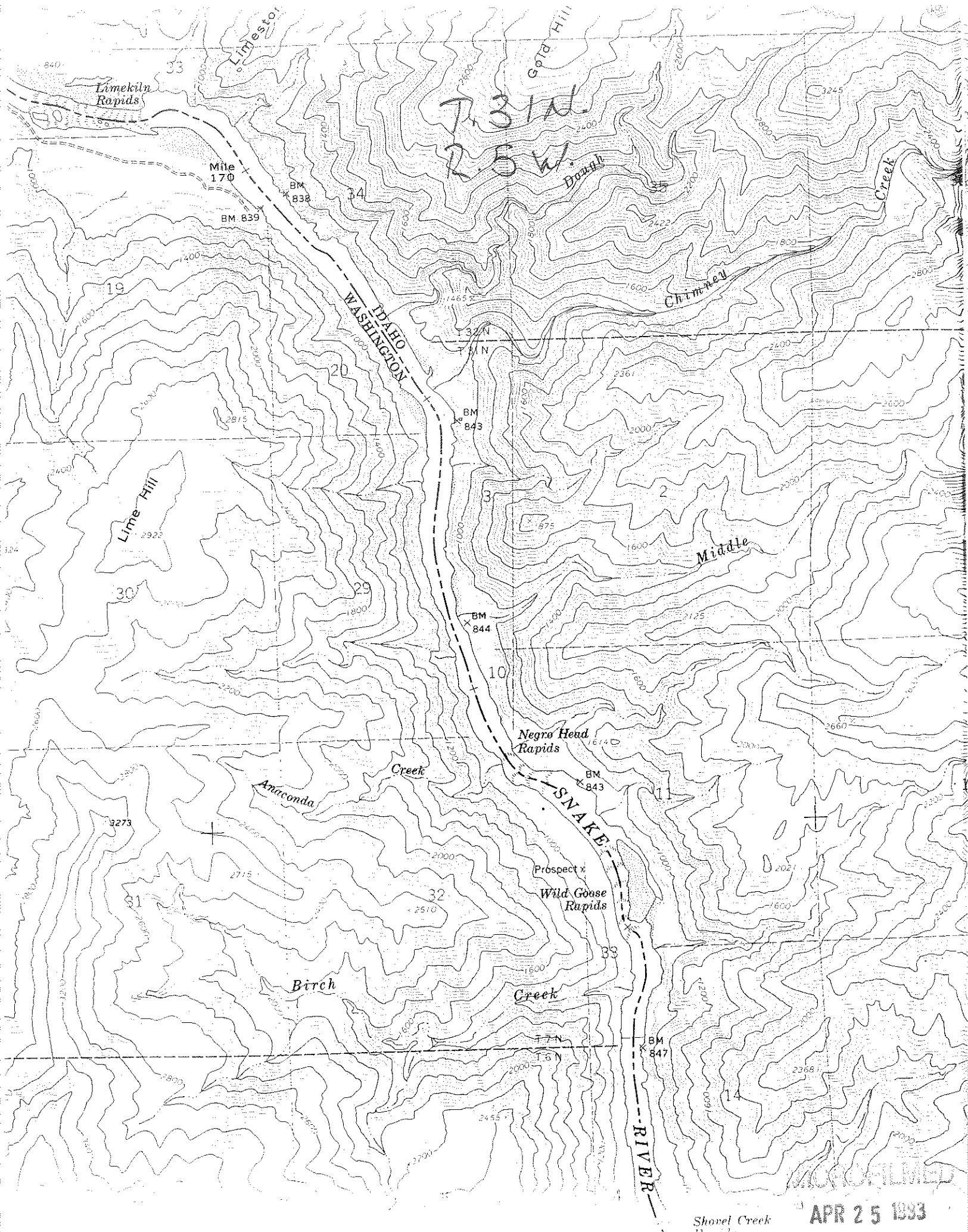
[Signature]
Signature of Authorized Agent
Chairman, IWRB
Title and Organization
7/1/88
Date

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 1 day of July 19 88
[Signature]
Notary Public

Seal

Residing at Emmett
My Commission Expires 5/30/92



T. 31 N.
R. 5 W.

APR 25 1893

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resource

Receipt No: 0002305

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE
BOISE ID 83720

Date: 08/22/88
Time: 17:27:57

Received
From: DEPT OF WATER RESOURCES

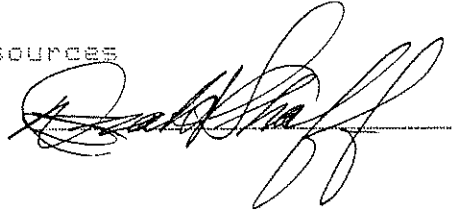
Type of Payment	Program Acct	Amount
ADJUDICATION FEE	0410162 9337 6490	\$572,040.00
Total		\$572,040.00

AR/ND 0000004 Total Claim Fee \$2,860,200.00 Current Bal. \$2,288,160.00
OTHER

WR/ND: A02-00200	A02-00201	A02-00223	A02-00224	A03-00006
A03-00007	A03-00008	A37-07727	A37-07728	A36-07818
A37-07734	A37-07739			

Idaho Department of Water Resources

Region: State

Signature: 

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APR 25 1993

7540-224-7445
FORM DA-18 Rev. 6-86

WHITE - State Auditor
GREEN - Paying Agency
YELLOW - Billing Agency
PINK - Retain in Paying Agency
GOLDENROD - Retain in Billing Agency

State of Idaho
Office of State Auditor
INTER-AGENCY BILL

0002305

AUDITOR USE <i>A03-00008</i>	
Document No. 00627	
Pre Audit	Date
	JUL 16 1990

FOR AGENCY USE

46	
Delivery Date	Billing Date
	7-13-90
Agency Code	
19-3002	

TO: (Paying Agency)

WATER RESOURCES

FROM: (Billing Agency)

WATERRESOURCES

INSTRUCTIONS:

1. BILLING AGENCY: Prepare 5 copies of DA-18. Complete sections A and B and sign. Detach goldenrod copies and forward rest of form to receiving agency. Yellow copy will be returned to you after this transaction has been processed.
2. PAYING AGENCY: Upon receipt of this form, complete section C. Sign, detach pink copy for your files and forward remaining copies to office of State Auditor. Green copy will be returned to you after form has been processed.
3. NOTE: Inter-agency bills may be used only for charges of materials or services from one agency to another. This form may not be used for intra-agency transfers of adjustment.

A. THIS SECTION CONTAINS THE NAME, PRICE, AND DESCRIPTION OF MATERIALS OR SERVICES SUPPLIED.

Description	Unit	Quantity	Unit Price	Amount
Snake Basin Adjudications Water Right Filings: A02-00201; A02-00223; A02-00200; A0200224; A03-00006; A03-00007; A0300008; A37-07727; A37-07728; A36-07818; A37-07734; A37-07739				743,652.00

743,652.00

B. THIS SECTION PROVIDES FOR AN INTER-AGENCY CREDIT TO THE BILLING AGENCY FOR THOSE ITEMS SHOWN ABOVE.

Line	Program	Acct.	Recpt. Class	Amount	For Agency Use
1	04-10-162	9337	6890	171,612.00	
2	04-10-162	"	7190	572,040.00	

C. THIS SECTION CHARGES THE AMOUNT SHOWN IN SECTION A TO THE PROPER ACCOUNTS INDICATED BELOW.

☐ PARTIAL ☐ FINAL		Encumbrance Reference Number:				
Agency Code	Line	Program	Acct.	Exp. Class	Amount	For Agency Use
19-3002	1	01-30-999	1101	9690	743,652.00	
TOTAL					743,652.00	

I hereby certify that the items listed above were furnished to the state agency indicated and that the amounts billed are proper charges.

Signed _____
(Authorized Agent of Billing Agency)

Signed _____
(Authorized Agent of Paying Agency)

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APR 25 1993

WHITE - State Auditor
 GREEN - Paying Agency
 YELLOW - Billing Agency
 PINK - Retain in Paying Agency
 GOLDENROD - Retain in Billing Agency

State of Idaho
 Office of State Auditor
INTER-AGENCY BILL

AUDITOR USE

Document No.

01822

Pre Audit

Date

AUG 10 1988

FOR AGENCY USE

127	
Delivery Date 8/3/88	Billing Date 8/8/88
Agency Code 19-00-02	

TO: (Paying Agency)

Dept. of Water Resources

FROM: (Billing Agency)

Dept. of Water Resources

Dave -
 Here's the water
 Board money!!

da

If DA-18. Complete sections A
 as and forward rest of form to
 be returned to you after this

his form, complete section C.
 and forward remaining copies to
 be returned to you after form

ad only for charges of materials
 or. This form may not be used for

A. THIS SECTION CONTAINS THE NAME, PRICE, AND DESCRIPTION OF MATERIALS OR SERVICES SUPPLIED.

Description	Unit	Quantity	Unit Price	Amount
Snake Basin Adjudications Water Right filings A02-00201; A02-00223; A02-00224; A03-00006; A02-00007; A03-00008; A36-07818; A37-07723; A37-007739.; A37-07734				572,040 00
				572,040 00

B. THIS SECTION PROVIDES FOR AN INTER-AGENCY CREDIT TO THE BILLING AGENCY FOR THOSE ITEMS SHOWN ABOVE.

Line	Program	Acct.	Recpt. Class	Amount	For Agency Use
1	04 10 162	9337	64 90	572,040 00	

C. THIS SECTION CHARGES THE AMOUNT SHOWN IN SECTION A TO THE PROPER ACCOUNTS INDICATED BELOW.

☐ PARTIAL ☐ FINAL					Encumbrance Reference Number:							
Agency Code	Line	Program			Acct.	Exp. Class		% of Total		Amount		For Agency Use
193002	1	01	30	999	1101	81	90			572,040.00		
TOTAL								100%=		572,040	00	MICROFILM

I hereby certify that the items listed above were furnished to the state agency indicated and that the amounts billed are proper charges.

Signed _____
 (Authorized Agent of Billing Agency)

Signed _____
 (Authorized Agent of Paying Agency)

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 APR 25 1993

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF THE)
SNAKE RIVER BASIN WATER)
RIGHT ADJUDICATION)

A RESOLUTION TO FILE
ADJUDICATION CLAIMS AND
PAY FILING FEES

WHEREAS, the Snake River Basin Water Right Adjudication has been commenced by order of the court dated November 19, 1987; and,

WHEREAS, under the provisions of the State Water Plan and Chapter 15, Title 42, Idaho Code, the Idaho Water Resource Board is the holder of certain instream water rights; and,

WHEREAS, these water rights must be claimed as a part of the Snake River Basin Adjudication; and,

WHEREAS, all claims filed with the Director of the Idaho Department of Water Resources as a part of the adjudication must be accompanied by the appropriate filing fee as set out in Section 42-1414, Idaho Code.

NOW, THEREFORE BE IT RESOLVED that the Idaho Water Resource Board, through its Chairman, files the following claims to water rights as part of the Snake River Basin Adjudication and directs the fees for those claims be taken from the money appropriated for that purpose and be paid to the Department of Water Resources.

Adjudication Claims

A02-00200

A02-00201

A02-00223

A02-00224

A03-00006

A02-00007

A03-00008

A36-07818

A37-07727

A37-07728

A37-07734

A37-07739

DATED this 1st day of July, 1988.


Chairman
Idaho Water Resource Board

ATTEST


Secretary

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APR 25 1993