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DEPARTMENT OF
WATER RESOURCES

Names of Parties Serving Document:

UNITED STATES OF AMERICA

STATE OF IDAHO

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**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 Number: 78-10625

)

)

) **AMENDED STIPULATION TO**
) **RESOLVE OBJECTION**

)

)

The United States of America, by and through the US Department of Agriculture, Forest

SUBCASE NUMBER 78-10625 – AMENDED STIPULATION TO RESOLVE OBJECTION

Service ("United States"), and the State of Idaho ("State") (collectively, "Parties"), by and through their respective undersigned counsel, hereby stipulate and agree as follows as to resolve the State's objection to the United States' water right claim in the above-captioned SRBA subcase.

WHEREAS, the United States has submitted the water right claim in the above-captioned SRBA subcase for a federal reserved water right to supply water at the Silvers Administrative Site; and

WHEREAS, the Parties desire to settle this dispute through the issuance of two separate decrees under state and federal law for the administrative site, with the use in conjunction under both decrees limited to the quantity necessary for the administrative site;

WHEREAS, the Parties previously filed a Stipulation to Resolve Objection in this subcase; and

WHEREAS, the Parties have conferred with the Idaho Department of Water Resources and desire to amend the state law water right description, as attached to this Stipulation, to conform the period of use of the irrigation right to the typical irrigation season in the area and to make other minor changes.

THEREFORE, the Parties agree and stipulate as follows:

1. TWO DECREES FOR THE ADMINISTRATIVE SITE. The Parties agree that this dispute can be resolved by the issuance of two water right decrees for the administrative site, with one decree based on federal law and the second decree based on state law, as described in the attachments to this Stipulation. The two decrees should be limited to a combined use equal to the quantity necessary for the administrative site. Such quantity is reflected in the attachments.

2. STIPULATION CONTINGENT UPON ISSUANCE OF DECREES. This Stipulation

is effective only if the water rights proceed to decree from the SRBA Court as such water rights are described on the attachments. If for any reason the Court does not issue a decree for either of the water rights as described, this Stipulation is null and void as to such water right and shall have no effect, and the United States shall proceed with a determination of its water right under applicable law.

3. CONFORMING DOCUMENTS. The Parties agree that they will execute and file any necessary documents with the SRBA Court to conform to the provisions described in this Stipulation.

4. STIPULATION NOT TO BE USED AGAINST THE PARTIES. The Parties agree that this Stipulation has been entered into based upon good faith negotiations for the purpose of resolving legal disputes, including pending litigation, by compromise and settlement and that nothing in this Stipulation, or any offers or compromises made in the course of negotiating this Stipulation, shall be construed as precedent in the SRBA or any other proceeding or context, as admissions against interest or tendered or used as evidence to show the validity or invalidity of any water right claims made by the Parties, or as an admission or concession of wrongdoing or liability, or shall be used in any manner by any party in the SRBA in any future proceedings in the SRBA, in any appellate proceedings concerning the SRBA, or in any other proceeding, other than those seeking approval of this Stipulation by the SRBA Court, for interpretation or enforcement of this Stipulation, or for a purpose contemplated by Idaho Rule of Evidence 408.

5. RESERVATIONS. Nothing in this Stipulation shall be construed to deprive any federal official of authority to revise, amend, or promulgate regulations. Nothing in this Stipulation shall be construed to commit any federal official to expend funds not appropriated by Congress.

6. VOLUNTARY EXECUTION. This Stipulation was entered into and executed voluntarily by the Parties in good faith, and without any fraud, misunderstanding, overreaching, misrepresentation, duress, or undue influence.

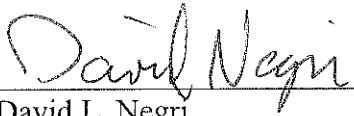
7. BINDING EFFECT. This Stipulation shall bind and inure to the benefit of any and all successors, assigns, heirs, executors, and administrators of each of the Parties.

8. COSTS AND ATTORNEY FEES. Each Party shall bear their own costs and attorney fees.

9. EFFECTIVE DATE. This Stipulation shall become effective upon execution by both of the Parties and IDWR.

DATED this 17 day of March, 2008.

DATED this _____ day of March, 2008.



David L. Negri
United States Department of Justice

Attorney for the United States of America

David J. Barber
Deputy Attorney General

Attorney for the State of Idaho

DATED this _____ day of March, 2008.

Andrea Courtney
Attorney for the Idaho Department of Water Resources

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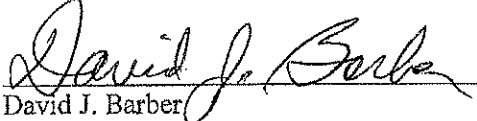
9. EFFECTIVE DATE. This Stipulation shall become effective upon execution by both of the Parties and IDWR.

DATED this ____ day of March, 2008.

David L. Negri
United States Department of Justice

Attorney for the United States of America

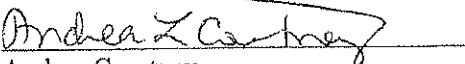
DATED this 17th day of March, 2008.



David J. Barber
Deputy Attorney General

Attorney for the State of Idaho

DATED this 17th day of March, 2008.



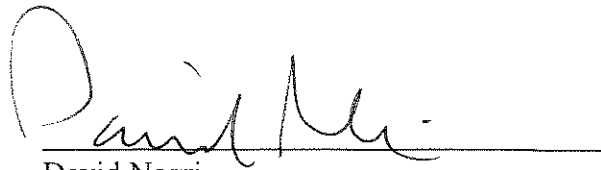
Andrea Courtney
Attorney for the Idaho Department of Water Resources

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17 day of March, 2008, I served a true and correct copy of the foregoing **AMENDED STIPULATION TO RESOLVE OBJECTION**, by depositing a copy thereof in the U.S. mail, postage prepaid, or by other service where indicated, upon the following:

David J. Barber, Deputy Attorney General
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098


David Negri

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS RESERVED UNDER FEDERAL LAW

Right Number: 78-10625

Name and Address: UNITED STATES OF AMERICA ACTING THROUGH THE
USDA FOREST SERVICE
550 W FORT ST MSC 033
BOISE, ID 83724

Source: SHINGLE CREEK Tributary: RAPID RIVER

Quantity: 0.08 CFS
1.0 AFY

This right is used in conjunction with 78-12331 and is
limited to a total combined diversion rate of .08 cfs.

Priority Date: 05-10-1906

Point of
Diversion: T23N R01W S01 SWNE Within Idaho County

Purpose and Period of Use:	Purpose of Use	Period of Use	Quantity
	Administrative	01-01 TO 12-31	0.08 CFS
			1.00 AFY

Use is for Silvers Administrative Site.

Place of Use: Administrative Within Idaho County
T23N R01W S01 SWNE

Other Provisions Necessary for Definition / Administration of this Water Right:

Explanatory Material: Basis of Claim - Reserved

This partial decree is subject to such general provisions
necessary for the definition of the 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. Section 42-1412(6), Idaho
Code.

FOREST SERVICE RECORD ID = 011717060210010220 00

03/04/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 78-12331

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
USDA FOREST SERVICE
550 W FORT ST MSC 033
BOISE ID 83724

SOURCE: SHINGLE CREEK

TRIBUTARY: RAPID RIVER

QUANTITY: 0.080 CFS

The quantity of water under this right for domestic and stockwater uses shall not exceed 13,000 gallons per day.

This right is used in conjunction with right no. 78-10625 and is limited to a total combined diversion rate of 0.08 cfs.

PRIORITY DATE: 05/10/1906

POINT OF
DIVERSION:

T23N R01W S1 SWNE Within IDAHO County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	02/15 11/30	0.080 CFS
DOMESTIC	01/01 12/31	0.040 CFS
STOCKWATER	01/01 12/31	0.020 CFS

Use is for Silvers Administrative Site.

PLACE OF USE: IRRIGATION in IDAHO County

T23N R01W S01 SWNE 3.00

DOMESTIC same as IRRIGATION

STOCKWATER same as IRRIGATION

3 ACRES TOTAL

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

This partial decree is subject to such general provisions necessary for the definition of the 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. Section 42-1412(6), Idaho Code.

The quantity of water decreed for this water right for domestic use and stockwater use is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Forest Service Record ID = 011717060210010220 00