



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

August 24, 2009

David W. Gehlert
Natural Resources Section
Environment and Natural Resource Division
U.S. Department of Justice
1961 Stout Street – 8th Floor
Denver, CO 80294

*RE: SRBA Subcase Nos. 63-251, 63-373, 63-302, 63-2106, 63-2388
& 63-32579 (Bureau of Reclamation)*

Dear Dave:

I am enclosing an SF5 for each of the above-referenced subcases. Please review the documents, and if they are acceptable, please sign on the indicated signature lines, initial the revised recommendations and return the original SF5s to me. I will obtain the remaining signatures and file the SF5s with the SRBA Court.

If you should have any questions or comments, please don't hesitate to contact me at (208) 287-4815.

Sincerely,

A handwritten signature in cursive script that reads "Ray Williams".

Ray Williams
Paralegal

Enclosures

**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	)	Subcase No. 63-2106
	)	
Case No. 39576	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
_____	)	WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages. No changes have been made to the digital boundary, thus no map describing the digital boundary is attached.

CLAIMANT:
Bureau of Reclamation

OBJECTOR/RESPONDENT:
Ray Obendorf

David W. Gehlert, USDOJ Date
Attorney for Claimant

Dana L. Hofstetter Date
Attorney for Objector/Respondent

STANDARD FORM 5 – Water Right No. 63-2106

OBJECTORS:

Boise Project Board of Control

Nampa & Meridian Irrigation Dist.

Albert P. Barker Date
Attorney for Objector

S. Bryce Farris Date
Attorney for Objector

IDWR Concurrence:

Jan Shurte Date
Water Rights Supervisor

 8-17-09

Nicholas B. Spencer Date
Deputy Attorney General
Attorney for IDWR

SF5 Right No. 63-2106

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

RIGHT NUMBER: 63-2106

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
BUREAU OF RECLAMATION
REGIONAL DIRECTOR PN CODE-3100
1150 N CURTIS RD STE 100
BOISE ID 83706-1234

SOURCE: FIVEMILE CREEK

TRIBUTARY: BOISE RIVER

QUANTITY: 10.000 CFS

PRIORITY DATE: 04/28/1909

NBS

POINT OF DIVERSION:

T03N R01E S24 NESW Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	9.960 CFS
DOMESTIC	01/01 12/31	0.040 CFS

PLACE OF USE:

167000 ACRES TOTAL

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

Place of Use is 195,526 irrigated acres within the following irrigation district boundaries: Boise-Kuna Irrigation District, Nampa-Meridian Irrigation District, Wilder Irrigation District, New York Irrigation District, and the Big Bend Irrigation District.

SF5 Right No. 63-2106

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

The name of the United States of America acting through the Bureau of Reclamation appears in the Name and Address sections of this partial decree. However, as a matter of Idaho Constitutional and Statutory Law, title to the use of the water is held by the consumers or users of the water. The irrigation organizations act on behalf of the consumers or users to administer the use of the water for the landowners in the quantities and/or percentages specified in the contracts between the Bureau of Reclamation and the irrigation organizations for the benefit of the landowners entitled to receive distribution of this water from the respective irrigation organizations. The interest of the consumers or users of the water is appurtenant to the lands within the boundaries of or served by such irrigation organizations, and that interest is derived from law and is not based exclusively on the contracts between the Bureau of Reclamation and the irrigation organizations.

NBS

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

CERTIFICATE OF MAILING

I certify that on _____, 2009, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

CLERK OF THE DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
253 THIRD AVENUE NORTH
P.O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

2. Copies to:

BOISE PROJECT BOARD OF CONTROL
Represented by:
ALBERT P. BARKER
1010 W. JEFFERSON, STE. 102
P.O. BOX 2139
BOISE, ID 83701-2139

RAY OBENDORF
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702

NAMPA & MERIDIAN IRR. DIST.
Represented by:
S. BRYCE FARRIS
RINGERT LAW CHARTERED
455 S. THIRD ST.
P.O. BOX 2773
BOISE, ID 83701-2773

UNITED STATES OF AMERICA
USDI BUREAU OF RECLAMATION
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

Signature of person or attorney mailing the form