



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

September 16, 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 No. 63-2109 (Bureau of Reclamation)

Dear Dave:

I am enclosing an SF5 for the above-referenced subcase. Please review the document, and if it is acceptable, please sign on the indicated signature line, initial the revised recommendation and return the original SF5 to me. I will obtain the remaining signatures and file it 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 black ink that reads "Ray Williams".

Ray Williams
Paralegal

Enclosure

**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. 63-2109
	)	
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.

CLAIMANT:
Bureau of Reclamation

David W. Gehlert	Date
Attorney for Claimant	

STANDARD FORM 5 – 63-2109

OBJECTIONS:

Boise Project Board of Control

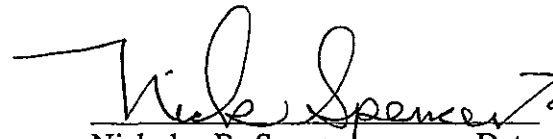
Nampa & Meridian Irrigation Dist.

Albert P. Barker Date
Attorney for Objector

S. Bryce Farris Date
Attorney for Objector

IDWR Concurrence:

Jan Shurte Date
Water Rights Supervisor

 9-15-09

Nicholas B. Spencer Date
Deputy Attorney General
Attorney for IDWR

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

RIGHT NUMBER: 63-2109

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: MASON CREEK

TRIBUTARY: BOISE RIVER

QUANTITY: 104.800 CFS

PRIORITY DATE: 06/02/1909

POINT OF DIVERSION:

T03N R01W S34 SWNW 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	104.800 CFS

PLACE OF USE:

69495 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.

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

Place of Use is within lands of the Nampa-Meridian Irrigation District.

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 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 Organization (Nampa & Meridian Irrigation District) acts 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 Nampa & Meridian Irrigation District for the benefit of the landowners entitled to receive distribution of this water from Nampa & Meridian Irrigation District. The interest of the consumers or users of the water is appurtenant to the lands within the boundaries of or served by Nampa & Meridian Irrigation District, and that interest is derived from law and is not based exclusively on the contracts between the Bureau of Reclamation and Nampa & Meridian Irrigation District.

NBS

SF5 Right No. 63-2109

The source of this water right is natural flow and/or waste water in Mason Creek and does not include any water that is delivered out of the New York Canal to Nampa & Meridian Irrigation District pursuant to existing rights and/or contracts between the Claimant and Nampa & Meridian Irrigation District. The place of use for this right is the lands of Nampa & Meridian Irrigation District. This right is used by the United States to fulfill, in part, the obligation for delivery of water by the United States under existing contract(s) and no additional contract(s) or compensation is necessary for the delivery of this right to the lands of NMID.

NBS

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

SF5 Right No. 63-2109

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, SUITE. 102
P.O. BOX 2139
BOISE, ID 83701-2139

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

USDI BUREAU OF RECLAMATION
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

Signature of person or attorney mailing the form