

RECEIVED

NOV 06 2009

DEPARTMENT OF
WATER RESOURCES

JOHN C. CRUDEN
Acting Assistant Attorney General
Environmental and Natural Resources Division

DAVID W. GEHLERT
Natural Resources Section
Environment and Natural Resources Division
U.S. Department of Justice
1961 Stout Street, 8th Floor
Denver, Colorado, 80294
Phone: (303) 844-1386
Fax: (303) 844-1350

Counsel for the United States of America

**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 Nos.: 00-92002GP, 02-00200,
	)	02-00201, 02-00223, and 02-00224
Case No. 39576	)	
	)	UNITED STATES' STATEMENT
	)	OF AGREEMENT WITH THE
	)	RELIEF SOUGHT BY THE
	)	STATE OF IDAHO'S MOTION
	)	FOR SUMMARY JUDGMENT RE:
	)	MILNER ZERO MINIMUM FLOW
	)	

The United States Bureau of Reclamation, by and through its counsel of record, hereby informs the Court that it agrees with the relief requested in the *State of Idaho's Motion for Partial Summary Judgment Re: Milner Zero Minimum Flow* filed October 19, 2009.

1. The United States agrees with the State of Idaho that the first sentence of General Provision No. 4 of the Basin 02 General Provisions should be clarified to read:

The flow of the Snake River at Milner Dam may be reduced to zero, and water rights using water downstream from Milner Dam have no right to call for the

delivery, or seek the administration, of the flow of the Snake River or surface and ground water tributary to the Snake River upstream from Milner Dam.

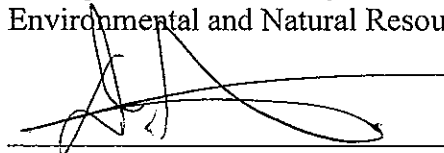
2. The United States agrees with the State of Idaho that a condition should be included in the "Other Provisions Necessary for Definition/Administration of this Water Right" section of the partial decree for water right 02-00200 stating:

The flow of the Snake River at Milner Dam may be reduced to zero, and water rights using water downstream from Milner Dam have no right to call for the delivery, or seek the administration, of the flow of the Snake River or surface and ground water tributary to the Snake River upstream from Milner Dam.

DATED this 3rd day of November, 2009.

Respectfully submitted,

JOHN C. CRUDEN
Acting Assistant Attorney General
Environmental and Natural Resources Division



DAVID W. GEHLERT
Natural Resources Section
Environment and Natural Resources Division
U.S. Department of Justice
1961 Stout Street, 8th Floor
Denver, Colorado, 80294

Attorneys for the United States of America

CERTIFICATE OF SERVICE

I certify that on November 3, 2009, I served true and correct copies of the foregoing UNITED STATES' STATEMENT OF AGREEMENT WITH THE RELIEF SOUGHT BY THE STATE OF IDAHO'S MOTION FOR SUMMARY JUDGMENT RE: MILNER ZERO MINIMUM FLOW as follows:

via FedEx mail:

Clerk of the District Court (original + 4 copies)
Snake River Basin Adjudication
253 Third Avenue North
Twin Falls, ID 83303-2707
Phone: 208-736-3011

Via First Class U.S. Mail, pre-paid:

Josephine P. Beeman
Beeman & Associates, P.C.
409 W. Jefferson Street
Boise, ID 83702

James C. Tucker
Idaho Power Company
P.O. Box 70
Boise, ID 83707

Dana Hofstetter
Hofstetter Law Office
608 West Franklin Street
Boise, ID 83702

Randall C. Budge
Thomas J. Budge
Racine, Olson, Nye, Budge & Bailey, Chtd.
P.O. Box 1391
Pocatello, ID 83204-1391

James S. Lochhead
Michael A. Gheleta
Brownstein Hyatt Farber Schreck, PC
410 17th Street, Suite 2200
Denver, CO 80202

Candice M. McHugh
Racine, Olson, Nye, Budge & Bailey, Chtd.
101 S. Capitol Blvd., Suite 208
Boise, ID 83702

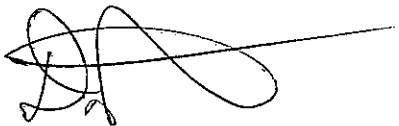
John K. Simpson
Shelley M. Davis
Barker, Rosholt & Simpson, LLP
P.O. Box 2139
Boise, ID 83701-2139

Chief, Natural Resources Division
State of Idaho
Office of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449

John A. Rosholt
Travis Thompson
Barker, Rosholt & Simpson, LLP
P.O. Box 485
Twin Falls, ID 83303-0485

United States Department of Justice
Environment and Natural Resources Div.
550 West Fort Street, MSC 033
Boise, ID 83724

Director of IDWR
Idaho Water Center
P.O. Box 83720
Boise, ID 83720-0098

A handwritten signature in black ink, appearing to be 'D. Gehlert', written over a horizontal line.

David W. Gehlert