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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

) Subcase Numbers: 63-30978 and
) 63-31973
)

Case No. 39576

) **STIPULATION TO RESOLVE**
) **OBJECTIONS**
)
)

The United States of America, by and through the US Department of Agriculture, Forest
Service ("United States"), and the State of Idaho ("State") (collectively, "Parties"), by and through

STIPULATION TO RESOLVE OBJECTIONS

Page 1

their respective undersigned counsel, hereby stipulate and agree as follows as to resolve the State's objections to the United States' water right claims in subcases 63-30978 and 63-31973.

WHEREAS, the United States has submitted the water right claims in the above-captioned SRBA subcases for federal reserved water rights to supply water at Forest Service Administrative Sites; and

WHEREAS, the State has objected to the United States' water right claims; and

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

THEREFORE, the Parties agree and stipulate as follows:

1. TWO DECREES FOR EACH WATER USE. The Parties agree that this dispute can be resolved by the issuance of two water right decrees for each water use at each administrative site, with one decree based on federal law and the second decree based on state law. The two decrees should be limited to a combined use equal to the quantity necessary for the administrative site. Such quantity for each water use is reflected in the attached Exhibits 1 through 4.

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 in the attached exhibits. If for any reason the Court does not issue a decree for either of the water rights as described on the attached exhibits, 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 rights 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 or state 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. Nothing in this Stipulation shall be construed to commit any state official to expend funds not appropriated by the Idaho State Legislature.

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.

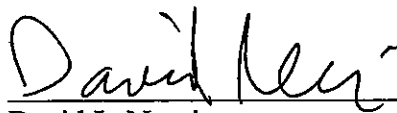
7. BINDING EFFECT. This Stipulation shall bind and inure to the benefit of any and all

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.

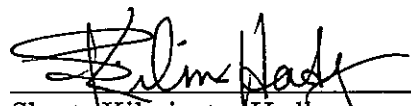
DATED this 29 day of December, 2009.



David L. Negri
United States Department of Justice

Attorney for the United States of America

DATED this 29th day of December, 2009.



Shasta Kilminster-Hadley
Deputy Attorney General

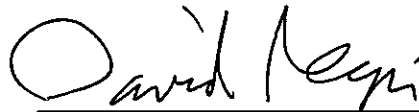
Attorney for the State of Idaho

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29 day of December, 2009, I served a true and correct copy of the foregoing **STIPULATION TO RESOLVE OBJECTIONS**, by depositing a copy thereof in the U.S. mail, postage prepaid, or by other service where indicated, upon the following:

Shasta Kilminster-Hadley, 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

A handwritten signature in black ink that reads "David Negri". The signature is written in a cursive style with a large, looped "D" and a stylized "N".

David Negri

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHTS RESERVED UNDER FEDERAL LAW

Right Number: 63-30978

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

Source: GROUNDWATER

Quantity: .04 CFS

This right is used in conjunction with 63-33042 and is limited to a total combined diversion rate of .04 cfs.

Priority Date: 11-06-1906

Point of
Diversion: T01N R09E S02 SESW Within Elmore County

Purpose and Period of Use:	Purpose of Use	Period of Use	Quantity
	Administrative	01-01 TO 12-31	.04 CFS

Place of Use: Administrative Within Elmore County
T01N R09E S02 SESW

Other Provisions Necessary for Definition / 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.

Explanatory Material: Basis of Claim - Reserved

FOREST SERVICE RECORD ID = 4 2 17050113 7 0 0011
Lester Creek Guard Station

12/02/2009

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

RIGHT NUMBER: 63-33042

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

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.040 CFS

This right is used in conjunction with right no. 63-30978 and is limited to a total combined diversion rate of 0.04 cfs.

The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 07/01/1933

POINT OF DIVERSION:

T01N R09E S2 SESW Within ELMORE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	0.040 CFS

PLACE OF USE: DOMESTIC in ELMORE County

T01N R09E S02 SESW

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

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

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 - Beneficial Use

FOREST SERVICE RECORD ID = 4 2 17050113 7 0 0011

Use is at Lester Creek Guard Station.

Stipulation To Resolve Objections

Exhibit 2

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHTS RESERVED UNDER FEDERAL LAW

Right Number: 63-31973

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

Source: GROUND WATER

Quantity: .04 CFS

This right is used in conjunction with 63-33043 and is limited to a total combined diversion rate of .04 cfs.

Priority Date: 05-29-1905

Point of
Diversion: T03N R13E S02 Lot 5 (SESE) Within Camas County

Purpose and Period of Use:	Purpose of Use	Period of Use	Quantity
	Administrative	01-01 TO 12-31	.04 CFS

Place of Use: Administrative Within Camas County
T03N R13E S02 Lot 5 (SESE)

Other Provisions Necessary for Definition / 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.

Explanatory Material: Basis of Claim - Reserved

FS No. 4 14 17050113 38 0049 Big Smoky Guard Station

12/02/2009

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

RIGHT NUMBER: 63-33043

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

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.040 CFS

This right is used in conjunction with right no. 63-31973 and is limited to a total combined diversion rate of 0.04 cfs.

The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 11/14/1908

POINT OF DIVERSION:

T03N R13E S2 SESE Lot 5 Within CAMAS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	0.040 CFS

PLACE OF USE: DOMESTIC in CAMAS County

T03N R13E S02 Lot 5 SESE

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 is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

FS No. 4 14 17050113 38 0049 Big Smoky Guard Station.

Stipulation To Resolve Objections

Exhibit 4