



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

January 27, 2010

Special Master Terrence Dolan
Snake River Basin Adjudication
253 3rd Ave. N.
P.O. Box 2707
Twin Falls, ID 83303-2707

Sent Via Facsimile & Mail

RE: SRBA Subcase No. 01-217 (Bureau of Reclamation)

Dear Special Master Dolan:

This letter is written as a follow up to the voice mail message that you left for me yesterday. In reviewing Exhibit 4 from the Minidoka Credit Trial, it appears that the Department inadvertently excluded the amended recommendation for water right 01-217. It is the Department's position that water right 01-217 would best be described as proposed with the same language contained in the "Other Provisions" portion of the amended water right recommendations contained within Exhibit 4. The exclusion of water right 01-217 from Exhibit 4 was an oversight by the Department. While the amended recommendation for water right 01-217 is not a part of the trial exhibit, I am attaching an amended recommendation for 01-217 for reference.

I apologize for the confusion. If you have any questions or concerns, please do not hesitate to contact me at 287-4811.

Sincerely,

A handwritten signature in blue ink, appearing to read "G. Baxter", is written over the typed name.

Garrick L. Baxter
Deputy Attorney General, IDWR

Enclosure

cc: David Gehlert
David Stanish
Kent Fletcher
Randy Budge
Roger Ling
Travis Thompson

12/16/2006

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

RIGHT NUMBER: 1-217

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

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 2,500.000 CFS

PRIORITY DATE: 06/15/1909

The appropriator shall exercise this right in a manner that recognizes the historic practice that the use of water for power generation is incidental to the rights of others to the use of water for other purposes. The appropriator shall not make a delivery call for hydropower generation except as against junior hydropower rights.

POINT OF

DIVERSION: T09S R25E S1 NENESW Lot 3 Within MINIDOKA County

PURPOSE AND

PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
POWER	1/01 12/31	2,500.000 CFS

PLACE OF USE: POWER in MINIDOKA County

T09S R25E S01 Lot 3 NESW

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 Director of the Idaho Department of Water Resources shall determine what part of the water flowing in the Snake River at the Minidoka and Milner Dams is storage waters and what part is natural flow. The amount of natural flow shall be determined as such natural flow would be, if unaffected by the diversions or acts of the parties to Twin Falls Canal Co v Foster, Decree (4th Jud. Dist., Twin Falls Co., June 20, 1913). The natural flow to which the Twin Falls Canal Company and the Northside Canal Company are entitled shall be measured at the Milner Dam.~~

The operation, use and administration of this water right is subject to the terms and conditions of the Settlement Agreement signed on February 14, 2006 with Minidoka Irrigation District, Burley Irrigation District, Twin Falls Canal Company, North Side Canal Company and American-Falls Reservoir District #2 and recorded in the Bonneville County Recorder's Office as Instrument No. .

The delivery of water to this right may be subject to the provisions for winter power operation at the Minidoka power plant as recognized in the Burley Irrigation Dist. v. Eagle, Supplemental Decree (Idaho 5th Jud. Dist., July 10, 1968) and Aberdeen-Springfield Canal Co. v. Eagle, Supplemental Decree (Idaho 7th Jud. Dist., March 12, 1969).

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed