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FEB 17 2010

DEPARTMENT OF
WATER RESOURCES

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. 01-10383

STANDARD FORM 5

Case No. 39576

STIPULATED ELEMENTS OF A
WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law. 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; and 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.

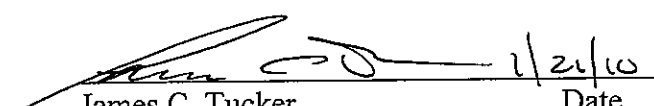
The parties and IDWR agree and stipulate that the elements of this water right should be decreed as described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT/OBJECTOR:

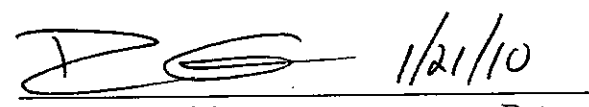
Idaho Power Company

OBJECTOR:

State of Idaho


James C. Tucker
Attorney for Claimant/Objector

1/21/10
Date


David I. Stanish
Deputy Attorney General
Attorney for Objector

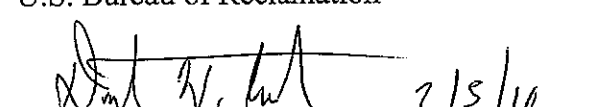
1/21/10
Date

OBJECTOR:

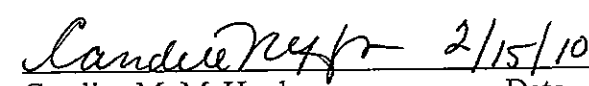
U.S. Bureau of Reclamation

OBJECTOR:

Ground Water Districts


David W. Gehlert
Attorney for Objector

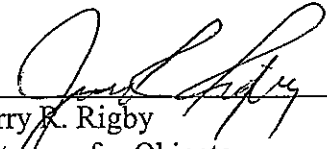
2/5/10
Date


Candice M. McHugh
Attorney for Objector

2/15/10
Date

OBJECTOR:

American Falls Spaceholders


Jerry R. Rigby
Attorney for Objector

1-21-10
Date

IDWR CONCURRENCE:


Carter Fritschle
Water Rights Adjudication
Section Manager

1-25-10
Date

IDWR CONCURRENCE:


Garrick L. Baxter
Deputy Attorney General
Attorney for IDWR

1/21/2010
Date

CERTIFICATE OF SERVICE

I certify that on this 16th day of Feb. 2010, I caused to be served the original and copies of the **STANDARD FORM 5** on the following persons by the methods indicated:

1. Original to:

CLERK OF THE DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
253 THIRD AVENUE NORTH
PO BOX 2707
TWIN FALLS, ID 83303-2707

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile: (208) 736-2121
☐ Statehouse Mail

2. Copies to:

IDAHO POWER COMPANY
Represented by:
JAMES C TUCKER
IDAHO POWER CO
PO BOX 70
BOISE, ID 83707

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile:
☐ Statehouse Mail

IDAHO POWER COMPANY
Represented by:
JIM LOCHHEAD
BROWNSTEIN HYATT ET AL
410 17TH STREET, SUITE 2200
DENVER, CO 80202

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile:
☐ Statehouse Mail

ABERDEEN AMERICAN FALLS GWD
BINGHAM GWD
BONNEVILLE JEFFERSON GWD
CAREY VALLEY GWD
IGWA INC
JEFFERSON CLARK GWD
MADISON GWD
MAGIC VALLEY GWD
NORTH SNAKE GWD
Represented by:
CANDICE MCHUGH
RACINE, OLSON, NYE, BUDGE &
BAILEY, CHTD.
101 CAPITOL BLVD., STE. 208
BOISE, ID 83702

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile:
☐ Statehouse Mail

USDI BUREAU OF RECLAMATION
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC O33
BOISE, ID 83724

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile:
☐ Statehouse Mail

UNITED STATES OF AMERICA
REGIONAL DIRECTOR PN REGION
BUREAU OF RECLAMATION PN-3100
1150 N CURTIS RD STE 100
BOISE, ID 83706-1234

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile: _____
☐ Statehouse Mail

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV. CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
P.O. BOX 44449
BOISE, ID 83711-4499

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile: _____
☐ Statehouse Mail

AMERICAN FALLS SPACEHOLDERS
Represented by:
JERRY R. RIGBY
RIGBY, ANDRUS & MOELLER
P.O. BOX 250
REXBURG, ID 83440

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile: _____
☐ Statehouse Mail

IDWR DOCUMENT DEPOSITORY
PO BOX 83720
BOISE, ID 83720-0098

- ☐ Federal Express
☐ Facsimile: _____
☒ Statehouse Mail
US Mail

Candice Muffo

01/07/2010

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

RIGHT NUMBER: 1-10383

NAME AND ADDRESS: IDAHO POWER CO
PO BOX 70
BOISE ID 83707

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 611.000 CFS

~~The quantity of water for this right and Right Nos. 01-2017, 01-2032 and 01-10383 when combined together is limited to 100 CFS beginning April 1, increasing uniformly to 2500 CFS on May 1, and continuing at that amount to September 15 inclusive, then decreasing uniformly to 100 CFS on October 31, and none from November 1 to March 31 inclusive.~~

PRIORITY DATE: 08/01/1901

The right for the use of water acquired under this right shall be junior and subordinate to all other rights for the use of water within the State of Idaho with a priority date later in time than the priority of this right and shall not give rise to any claim against any future rights for the use of water within the State of Idaho initiated later in time than the priority of this right.

POINT OF
DIVERSION:

T07S R31E S30 SWSE Lot 12 Within POWER County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
POWER	04/01 10/31	611.000 CFS
Power generation is at the American Falls Power Plant.		

PLACE OF USE: POWER in POWER County

T07S R31E S30 Lot 12 SWSE

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.

~~As provided in the Contract Between the United States of America and the Idaho Power Company Relative to Power Rights at American Falls, Idaho, dated June 15, 1923, Idaho Power Company limited its power water rights on the Snake River at whatever point and in whatever counties the same may be located insofar as and no farther than the rights allowed and granted to the United States to store and use water.~~

~~The remainder of this right was conveyed to the United States by the Contract Between the United States of America and the Idaho Power Company Relative to Power Rights at American Falls, Idaho, dated June 15, 1923, also identified in the United States records as Symbol IIR-733, and the deeds recorded as instrument numbers 31019, 31020, 31021 and 38454 as on file at the recorders office in Power County, Idaho.~~

~~As a condition of the accomplished transfer, the project shall be operated in such manner as will not conflict with the future depletion in flow of the waters of the Snake River and its tributaries, or prevent or interfere with the future upstream diversion and use of such waters for the irrigation of lands and other beneficial consumptive uses in the Snake River watershed.~~

JP

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

DL

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

JS

AB *CA*

SM-