

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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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 Nos.: See Attachment A
	)	
Case No. 39576	)	ERRATUM TO UNITED STATES'
	)	MOTION FOR SUMMARY
	)	JUDGMENT

On August 17, 2009, the United States filed its MOTION FOR SUMMARY JUDGMENT in the subcases designated in Attachment A with proposed remarks that were provided to the Court as Attachment B to that motion. In said Attachment B, the United States proposed remarks for Minidoka and Palisades Power Rights but inadvertently omitted proposed Clarifying Remarks for the Other Provisions Necessary Section regarding contracts between the federal contractors and the Bureau of Reclamation. Those proposed remarks, however, were provided in the United States' Memorandum in Support. To avoid any potential confusion

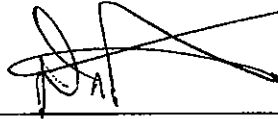
regarding the United States' intention, attached to this erratum statement is a replacement for Attachment B which includes those proposed clarifying remarks.

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DATED this 30th day of October, 2009.

Respectfully submitted,

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Attachment A

Subcase Nos.

Minidoka Power Rights

01-217

01-218

01-4024

01-4025

Palisades Storage Power Right

01-2068

Palisades Natural Flow Power Right

01-4054

Attachment B

REMARKS FOR MINIDOKA AND PALISADES POWER RIGHTS

1. Minidoka Powerplant

A. **Right Nos. 01-00217 and 01-00218**

While the United States has the privilege to use 2,700 cfs for the development of power under water right nos. 01-00217 and 01-00218, it will be the objective of the United States in the operation of the Minidoka powerplant to limit the exercise of water right nos. 01-00217 and 01-00218 for power production at the Minidoka powerplant whenever operation of the Minidoka powerplant to the full extent of these water rights for power production would result in loss of water otherwise storable in the reservoir system. Accordingly, except as it is determined by the Secretary that additional water may be passed through Minidoka Dam without the loss of water that could be stored in the reservoir system, the United States will limit the release of water through the Minidoka Dam. To the extent that it is practicable to do so, the Watermaster and the Water District 1 Advisory Committee will be informed in advance of any plans for the release of water in excess of the foregoing limitation. "Reservoir system" shall mean all Federal reservoirs on the Snake River and its tributaries down to and including Lake Walcott.

B. **Right Nos. 01-04024 and 01-04025**

This right may be exercised if it is determined by the Secretary that additional water may be passed through Minidoka Dam, in excess of that authorized under right nos. 01-00217 and 01-00218, without the loss of water that could be stored in the reservoir system. "Reservoir system" shall mean all Federal reservoirs on the Snake River and its tributaries down to and including Lake Walcott.

This right carries no entitlement to make a delivery call for hydropower generation except as against junior hydropower rights.

2. Palisades Powerplant

A. **Storage Right (no. 01-02068)**

The United States, after consultation with the Watermaster and the Water District 1 Advisory Committee, may release stored water from Jackson Lake and Palisades reservoirs for the maintenance of power production at Palisades Dam powerplant and may store such water in American Falls Reservoir. The release of such water will be confined, however, when it appears to the Secretary that American Falls, Palisades, and Jackson Lake reservoirs will fail to fill, to not more than 1,000 cfs for minimum firm power production and that amount which can be stored in American Falls Reservoir; and no such release shall be made that will preclude the later delivery of water, by exchange or otherwise, to the upper valley entities entitled thereto. "Upper valley entities" shall mean those reservoir spaceholders diverting from the Snake River and its tributaries above American Falls Dam.

B. **Natural Flow Right (01-4054)**

This right may be exercised if it is determined by the Secretary that additional water may be passed through Palisades Dam, in excess of that authorized under water right no. 01-2068, without the loss of water that could be stored in the reservoir system. "Reservoir system" shall mean all Federal reservoirs on the Snake River and its tributaries down to and including Lake Walcott.

CLARIFYING REMARKS FOR OTHER PROVISIONS NECESSARY SECTION

3. This decree does not alter, amend, or modify the contracts entered into between various federal contractors and the United States Bureau of Reclamation, as amended, in connection with the Palisades project and the Minidoka project, which contracts remain binding among the parties thereto.

CERTIFICATE OF SERVICE

I certify that on October 30, 2009, I served true and correct copies of the foregoing ERRATUM TO UNITED STATES' MOTION FOR SUMMARY as follows:

via FedEx mail:

Clerk of the District Court (original + 5 copies)
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Phone: 208-736-3011

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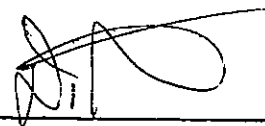
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A handwritten signature in black ink, appearing to read 'David W. Gehlert', is written over a horizontal line.

David W. Gehlert