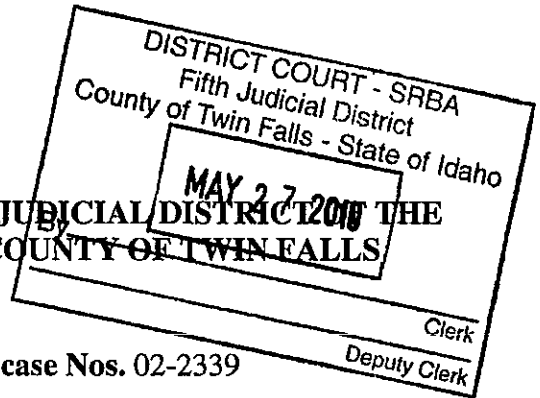


IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS



In Re SRBA

Subcase Nos. 02-2339

Case No. 39576

STANDARD FORM 5

**STIPULATED ELEMENTS OF A
WATER RIGHT**

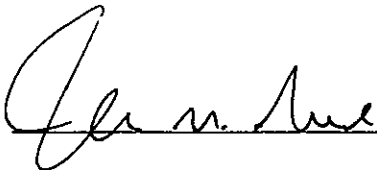
This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary 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; 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 described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

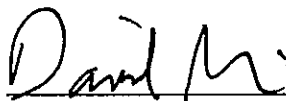
CLAIMANT:

United Water Idaho, Inc.

 5/17/10
Date

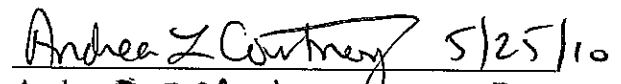
OBJECTORS:

United States of America
Bureau of Land Management

 5/20/10
David Negri Date

IDWR Concurrence:


Jan Shurte
Water Agent
Date 5/24/10


Andrea ~~XXXX~~ Courtney
Deputy Attorney General
Date 5/25/10

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

RIGHT NUMBER: 2-2339

NAME AND ADDRESS: UNITED WATER IDAHO INC
8248 W VICTORY RD
PO BOX 190420
BOISE ID 83719-0420

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 11.000 CFS
2,745.000 AFY

PRIORITY DATE: 12/07/1964

POINT OF DIVERSION:

T02S R01E S19 NENE Within ADA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	3/15, 11/15	11.000 CFS 2,745.00 AFY

PLACE OF USE: IRRIGATION in ADA County

T02S R01E S16	NENE	30.00	T02S R01E S16	NWNE	40.00
T02S R01E S16	SWNE	40.00	T02S R01E S16	SENE	40.00
T02S R01E S16	NENW	40.00	T02S R01E S16	NWNW	30.00
T02S R01E S16	SWNW	40.00	T02S R01E S16	SENW	40.00
T02S R01E S16	NESW	40.00	T02S R01E S16	NWSW	40.00
T02S R01E S16	SWSW	35.00	T02S R01E S16	SESW	40.00
T02S R01E S16	NESE	40.00	T02S R01E S16	NWSE	40.00
T02S R01E S16	SWSE	40.00	T02S R01E S16	SESE	35.00

610 ACRES TOTAL

The described place of use was purchased by the United States on February 12, 1998, and this water right was purchased by United Water Idaho Inc. on January 7, 2000. Water right 2-2339 is currently not being used at the described place of use and is instead being used at a different location pursuant to an exchange pursuant to Idaho Code 42-240 and authorized by Department order issued on June 13, 2006. So long as the United States continues to own the described place of use, no resumption of use at the described place of use is allowed absent express written authorization by the United States issued pursuant to proper delegation of authority and consistent with regulation and the applicable Land Use Plan. The holder of the water right agrees that lack of such authorization shall not be construed to be a taking, in whole or part, of the water right.

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

IT IS HEREBY ORDERED that the Order, dated July 22, 1999, approving an exchange of Boise River water with Snake River water right no. 2-2339 is Amended, and the following are conditions of approval that now apply to the exchange:

Part A

1. The water right holder's diversion from the Boise River under the Exchange shall occur only during times when the United States Bureau of Reclamation (Bureau) is providing flow augmentation water from Boise River reservoirs pursuant to the NOAA Fisheries flow augmentation program. The water right holder shall not divert from the Snake River under water right no. 2-2339 during any calendar year it diverts water from the Boise River as authorized by the Exchange. Leaving water in the Snake River that would have been diverted under water right no. 2-2339 replaces a like amount of water at the mouth of the Boise River that the water right holder diverts from the Boise River pursuant to this Exchange. The water right holder's Boise River diversions under this Exchange shall be:

- a. used solely for irrigation purposes within the water right holder's service area;
- b. controlled by the Boise River Watermaster. The Boise River and its tributaries are currently designated as Basin 63 in the Departments records. The water right holder shall install controlling works approved by the Department and the Boise River Watermaster;
- c. measured through the use of weirs and totalizing flow meters, as approved by the Department and the Boise River Watermaster, as well as through the use of any additional means of measurement that may be approved or required by the Department and the Boise River Watermaster, and records of such measurements shall accurately document: diversion rate, volume for identifiable time periods, time periods of diversion, and data to confirm that the water diverted was used solely for irrigation purposes; and
- d. reported annually to the Department and the Boise River Watermaster on or before November 1, of each year, which reports shall include, at a minimum, the measurement data and records specified in the preceding paragraph, and also shall include any additional data or records specified by the conditions of this Exchange or by a future order of the Department related to measurement and reporting.

2. The water right holder's diversions from the Boise River under this Exchange shall not exceed the lesser of parts a or b below, and a total annual diversion volume of 2,745.0 acre-feet of water:

- a. the instantaneous rate or volume of the Bureau's Boise River reservoir releases for the NOAA Fisheries flow augmentation program; or
- b. the instantaneous rate at which water is available in priority under the Snake River water right and is being delivered in the Snake River and administered in accordance with Idaho law to the confluence of the Boise and the Snake Rivers, not to exceed 11.0 cfs.

~~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.~~

~~This right is used by the right holder for diversion from the Boise River.~~

~~The right holder shall not divert water at its Marden Street plant under terms of the exchange unless the Bureau is simultaneously providing flow augmentation water to the Boise River from the Upper Boise River reservoirs.~~

~~Diversion of water from the Boise River shall not exceed the lesser of: a. The instantaneous rate at which the exchange water is available in priority under the Snake River water right, not to exceed 11 cfs, or b. The instantaneous rate of release of stored water from the Bureau's Upper Boise River reservoirs for Snake River flow augmentation.~~

~~The right holder is not entitled to require release of stored water by the Bureau.~~

~~Prior to use of water under the exchange, the right holder shall install a measuring device to measure the rate and volume of water diverted from the Boise River and shall annually report the amount of water diverted under the exchange to the Department.~~

~~Use of water under the exchange is subject to the control of the watermaster of State Water District 63, Boise River and its tributaries.~~

~~The right holder shall notify the Department and the Boise River watermaster each year before the exchange is exercised and when the exchange will cease for the year.~~

~~Failure of the right holder to comply with conditions of the exchange is cause for the Director to rescind approval of the exchange.~~

~~The exchange is effective for up to five (5) years from the date of the approval (22 July 1999) unless extended by the Director or rescinded for cause by the Director.~~

Part B

1. At any time when the Exchange would otherwise be in effect, if measured or calculated Boise River flows at the water right holder's point of diversion from the Boise River, are less than 240 cfs, or diversion at the point of diversion would reduce Boise River flows below 240 cfs during the period beginning June 1 and ending February 29, then the Exchange shall be limited to provide for not less than 240 cfs of flow in the Boise River. If measured or calculated Boise River flows at the point of diversion from the Boise River are less than 1,100 cfs; or diversion at the point of diversion would reduce Boise River flows below 1,100 cfs during the period beginning March 1 and ending May 31, then the Exchange shall be limited to provide for not less than 1,100 cfs of flow in the Boise River. Measured or calculated Boise River flows at the point of diversion shall be based on gauged Lucky Peak Dam discharge minus diversion to the New York Canal. If the benchmark stream maintenance flows of 240 cfs (from June 1 to February 29) and 1,100 cfs (from March 1 to May 31) subsequently change, then the water right holder's diversion of Boise River flows will be limited to provide for the new benchmark flows.
2. The Bureau is not expected or required to alter its operations in any way to accommodate the Exchange. The Exchange depends upon the Bureau's release of storage water pursuant only to the Bureau's discretion in fulfilling the terms of Idaho Code § 42-1763B and the NOAA Fisheries flow augmentation program, including the delivery and accounting of such releases by the Boise River Watermaster. The water right holder is not entitled to demand that any of these storage releases occur or that any release occur at any particular time or in any particular amount.
3. The water right holders diversion and use of water from the Boise River pursuant to this Exchange shall not conflict with applicable water bank rules, including any rules governing the Boise River Rental Pool, and shall not adversely affect the ability of any irrigation entity to rent and receive storage water through the Boise River Rental Pool under such rules, including, without limitation, any irrigation entity's entitlement to benefit from the preference for irrigation uses as specified therein.
4. The water right holders diversion and use of water from the Boise River pursuant to this Exchange shall be accounted for in the water right holders portfolio of water rights that may be recognized now or in the future in relation to any approved planning horizon, existing water rights holdings, or future needs volume. The Snake River water right shall not be diverted from alternate points of diversion for the water right holder's ground water rights.
5. Approval of this Exchange by the Department is not part of and does not support the NOAA Fisheries Program, and shall not be construed to be a part of or to support the NOAA Fisheries Program. However, if NOAA Fisheries or any court determines that this Exchange inhibits the Bureau's ability to comply with the flow augmentation program, then Boise River diversions under the Exchange will terminate until such time, if ever, that NOAA Fisheries or such court determines the Exchange does not inhibit the Bureau's ability to comply with the flow augmentation program.
6. Approval of this Exchange by the Department has no bearing upon the status of claims to Boise River storage water that are or that may be filed in the Snake River Basin Adjudication and has no bearing upon any contract with the Bureau for the storage and use of water in the Boise River reservoirs.

ATN

Imm
PN

JP

7. The Department monitors the below-Milner Snake River reach at the Murphy gage. At any point the Department, or any future watermaster on this reach, determines all or a portion of the exchanged Snake River water right is out of priority (i.e. that there is an insufficient amount of flow in the Snake River to fill all or a portion of the water right), the Department or the watermaster for the below-Milner Snake River reach will immediately notify the Boise River Watermaster. In turn, the Boise River Watermaster will preclude diversion of a comparable amount of Boise River water under this exchange as is currently unavailable to fill the exchanged Snake River water right.

8. The water right holder must be a municipal provider under Idaho Law.

9. Point of diversion authorized from the Boise River under this Exchange is described as T3N, R2E, Sec. 14, L7(SENE) (Marden Street Water Treatment Plant).

10. Place of use authorized under this Exchange is within the service area of United Water Idaho Inc. as provided for under Idaho law. The place of use is generally described as within the city limits of Boise and the surrounding service area.

11. Failure of the right holder to comply with conditions of this Exchange is cause for the Director to rescind approval of this Exchange.

CERTIFICATE OF MAILING

I certify that on May 26, 2010, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

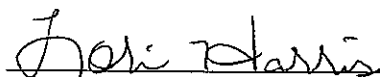
2. Copies to:

UNITED STATES OF AMERICA

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

UNITED WATER IDAHO INC
8248 W VICTORY RD
PO BOX 190420
BOISE, ID 83719-0420



Signature of person or attorney mailing the form