



8-5

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

August 2, 2010

Special Master Terrance A. Dolan
253 3rd Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

Re: Amended Director's Report for Water Right No. 1-6,
(American Falls Reservoir District #2)

Dear Special Master Dolan:

At the deposition of Interim Director Gary Spackman ("Director") on July 28, 2010, the Director testified that he was inclined to change the narrative condition currently listed under the quantity element of water right no. 1-6. The condition currently reads:

This right is limited to a maximum of 850 cubic feet per second (cfs) of the first 1,700 cfs diversion of natural flow available to the March 30, 1921, priority when the American Falls storage right (1-2064) has not completely filled for the season, with any remaining amount not diverted by American Falls Reservoir District #2 made available to American Falls Reservoir. If the American Falls Reservoir storage right (1-2064) completely fills after March 15 during the irrigation season, the maximum 1,700 cfs of natural flow available to the March 30, 1921, priority may be diverted under this right (1-6) beginning the day after the American Falls Reservoir storage right (1-2064) has completely filled.

The Director stated a preference for recommending the language of the Eagle decree. As a result of the deposition, the condition under the quantity element for water right no. 1-6 should read as follows:

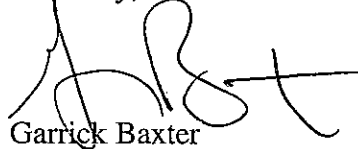
The right to divert as natural flow during each irrigation season under this water right, having a March 30, 1921, priority, as follows: From May 1 of each irrigation season continuing during that season so long as there is natural flow available for that priority, the first 1,700 cubic feet per second of flow to be available one-half (1/2) to American Falls Reservoir District No. 2 and one-half

(1/2) to American Falls Reservoir, except that in any year in which American Falls Reservoir is full to capacity on April 30 or fills after that date, taking into account any water that may be temporarily stored to its credit in upstream reservoirs, all water diverted by American Falls Reservoir District No. 2 within the maximum of 1,700 cubic feet per second during the year prior to the initial storage draft on American Falls Reservoir after the reservoir finally fills in that year shall be considered as natural flow under water right No. 1-6. Nothing herein shall prevent American Falls Reservoir District No. 2 from diverting water under said license prior to May 1 of a given irrigation season but all such diversions shall be charged as storage in the event the reservoir is not full on April 30 of that season or does not fill after April 30 of that season.

Attached is an amended Director's Report consistent with the above described change. This change is consistent with the position taken by American Falls Reservoir District #2 ("AFRD #2) in its Objection and Notice of Intent to File Motion for Summary Judgment (filed with this Court on April 13, 2010), where AFRD #2 suggests the language of the Department's recommendation should be the same as the language in the Eagle Decree. This amendment will simplify the issues before the Court.

If you have any questions with regards to this letter and attached Amended Director's Report, please feel free to contact me at (208) 287-4811.

Sincerely,

A handwritten signature in black ink, appearing to read "Garrick Baxter", with a long horizontal stroke extending to the right.

Garrick Baxter
Deputy Attorney General
Idaho Department of Water Resources

Enclosure

Cc: Rob Harris
Candice McHugh
Tom Arkoosh
David Gehlert
Jerry Rigby
Michael Orr

AMENDED DIRECTOR'S REPORT

Subcase No. 01-6

In Re SRBA

Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
Gary Spackman, Interim Director
Carter Fritschle, Manager, Adjudication Section

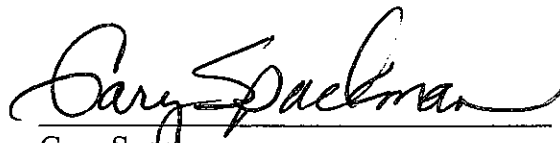
August 2, 2010

DESCRIPTIVE SUMMARY

This is an Amended Director's Report submitted by the Interim Director of the Idaho Department of Water Resources.

DISCUSSION

The Interim Director submits the attached Amended Director's Report for filing with the Court. This Amended Director's Report contains no changes to the place of use element of this water right. Accordingly, no color maps or compact discs containing the digital boundary are being included with this filing.



Gary Spackman
Interim Director

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

RIGHT NUMBER: 1-6

NAME AND ADDRESS: AMERICAN FALLS RESERVOIR DIST #2
409 N. APPLE ST.
SHOSHONE ID 83352

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 1,700.000 CFS

The right to divert as natural flow during each irrigation season under this water right, having a March 30, 1921, priority, as follows: From May 1 of each irrigation season continuing during that season so long as there is natural flow available for that priority, the first 1,700 cubic feet per second of flow to be available one-half (1/2) to American Falls Reservoir District No. 2 and one-half (1/2) to American Falls Reservoir, except that in any year in which American Falls Reservoir is full to capacity on April 30 or fills after that date, taking into account any water that may be temporarily stored to its credit in upstream reservoirs, all water diverted by American Falls Reservoir District No. 2 within the maximum of 1,700 cubic feet per second during the year prior to the initial storage draft on American Falls Reservoir after the reservoir finally fills in that year shall be considered as natural flow under water right No. 1-6. Nothing herein shall prevent American Falls Reservoir District No. 2 from diverting water under said license prior to May 1 of a given irrigation season but all such diversions shall be charged as storage in the event the reservoir is not full on April 30 of that season or does not fill after April 30 of that season.

PRIORITY DATE: 03/30/1921

POINT OF
DIVERSION:

T10S R21E S28 SWNW Lot 5 Within JEROME County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	1,700.000 CFS

PLACE OF USE:

101903 ACRES TOTAL

Place of use is within the boundary of American Falls Reservoir District No. 2 pursuant to Section 43-323, Idaho Code.

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

This right is limited to the irrigation of 62,361 acres within the place of use described above in a single irrigation season.

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

Rights have also been claimed to water from Basin 37 for the same purpose of use at the same place of use described above, which will be included in a Directors Report to be filed at a later date. Any water rights recommended in the Basin 37 report for the same purpose of use at the same place of use described above will contain combined use limitations for this right and the Basin 37 rights.

This partial decree is subject to such general provisions necessary for

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

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 delivery of water to this right may be subject to procedures described in the United States Bureau of Reclamation "space holder" contracts and 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) together with the natural-flow and storage deliveries as calculated by the Idaho Department of Water Resources.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Water is delivered through Milner Gooding Canal.

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

CERTIFICATE OF SERVICE

I certify that on Aug. 2nd, 2010, I served the original and/or copies of this form, including all attachments, to the following persons by delivering the original and/or copies, 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

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

2. Copies to:

UNITED STATES OF AMERICA
Represented by:
U.S. DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCES
550 WEST FORT STREET, MSC O33
BOISE, ID 83724

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIVISION CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
P.O. BOX 44449
BOISE, ID 83711-4449

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

AMERICAN FALLS RESERVOIR DISTRICT NO. 2
Represented by:
C. THOMAS ARKOOSH
CAPITOL LAW GROUP, PLLC
301 MAIN ST.
P.O. BOX 32
GOODING, ID 83330

AMERICAN FALLS RESERVOIR DISTRICT NO. 2

Represented by:
CRAIG D. HOBDEY
125 5TH AVE.
P.O. BOX 176
GOODING, ID 83330

BLACKFOOT IRRIGATION CO.
FREMONT-MADISON IRRIGATION
UNITED CANAL CO.

Represented by:
JERRY R. RIGBY
25 N 2ND E
P.O. BOX 250
REXBURG, ID 83440-0250

ABERDEEN AMERICAN FALLS
BINGHAM GROUND WATER DISTRICT
BONNEVILLE JEFFERSON GROUND
CAREY VALLEY GROUND WATER DIST.
JEFFERSON CLARK GROUND WATER
MADISON GROUND WATER DISTRICT
MAGIC VALLEY GROUND WATER DIST.
NORTH SNAKE GROUND WATER DIST.

Represented by:
RANDALL .C BUDGE
201 E. CENTER, STE. A2
P.O. BOX 1391
POCATELLO, ID 83204-1391

INDEPENDENT WATER USERS OF MUD LAKE
JEFFERSON IRRIGATION DISTRICT
MONTEVIEW CANAL CO.
MUD LAKE WATER USERS, INC.
PRODUCERS IRRIGATION CO.

Represented by:
ROBERT L. HARRIS
1000 RIVERWALK DR., STE. 200
P.O BOX 50130
IDAHO FALLS, ID 83405

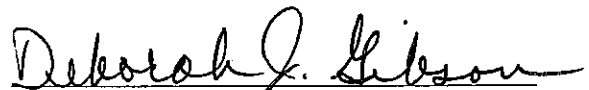
UNITED STATES OF AMERICA
USDI BUREAU OF RECLAMATION

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

JEROME COUNTY COURTHOUSE
300 N. LINCOLN
JEROME, ID 83338

GOODING COUNTY COURTHOUSE
624 MAIN ST.
P.O. BOX 27
GOODING, ID 83333

LINCOLN COUNTY COURTHOUSE
111 W. B STREET, DRAWER C
SHOSHONE, ID 83352-5364


Signature of person delivering form