



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

August 1, 2011

Michael C. Orr
Deputy Attorney General
Office of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449

Sent via Statehouse Mail

RE: SRBA Subcase No.63-367 (BOR)

Dear Michael:

I am enclosing a Standard Form 5 ("SF5") for above-referenced subcase. Please review the document, and if it is acceptable to you, please sign on the indicated signature line, initial the revised recommendation and return the original to me. I will circulate the SF5 for the remaining signatures and subsequent filing with the SRBA Court.

If you should have any questions or comments, please feel free to contact me at 287-4815.

Sincerely,

A handwritten signature in black ink that reads 'Ray Williams'.

Ray Williams
Paralegal

Enclosure

**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. 63-367
	)	
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/ OBJECTOR:

Bureau of Reclamation

David W. Gehlert	Date
Attorney for Claimant/Objector	

OBJECTORS:

State of Idaho

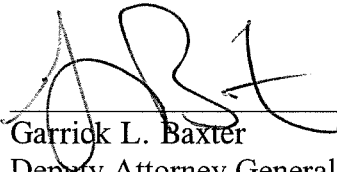
Idaho Power Company

Michael C. Orr Date
Attorney for Objector

John K. Simpson Date
Attorney for Objector

IDWR Concurrence:

Jan Shurte Date
Adjudication Supervisor

 7/29/2011

Garrick L. Baxter Date
Deputy Attorney General
Attorney for IDWR

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

RIGHT NUMBER: 63-367

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

AB

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 1,500.000 CFS

~~This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and proceeding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities.~~

PRIORITY DATE: 06/16/1909

~~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.~~

This water right may be exercised only when it will not cause the loss of water that could otherwise be stored in the reservoir system. "Reservoir system" shall mean all Federal reservoirs operated by the Bureau of Reclamation and/or the Army Corps of Engineers on the Boise River and its tributaries down to and including Lucky Peak Dam.

POINT OF DIVERSION:

T02N R03E S3 NWSW Lot 9 Within ADA County

PURPOSE AND
PERIOD OF USE:

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

PLACE OF USE: POWER in ADA County

T02N R03E S03 Lot 9 NWSW

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 - Decreed

A handwritten signature or set of initials, possibly 'JB', written in black ink.

CERTIFICATE OF MAILING

I certify that on _____, 2011, 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:

IDAHO POWER COMPANY
Represented by:
ADAM T. DEVOE
BROWNSTEIN HYATT & FARBER PC
410 17TH STREET, 22nd FLOOR
DENVER, CO 80202

IDAHO POWER COMPANY
Represented by:
JOHN K. SIMPSON
1010 W. JEFFERSON, STE 102
P.O. BOX 2139
BOISE, ID 83701-2139

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

UNITED STATES OF AMERICA
USDI BUREAU OF RECLAMATION
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCES
550 WEST FORT STREET, MSC O33
BOISE, ID 83724

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

Signature of person or attorney