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AUG 05 2011

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

Case No. 39576

) Subcase Nos. 02-223
)
)
)
)
)
)

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.

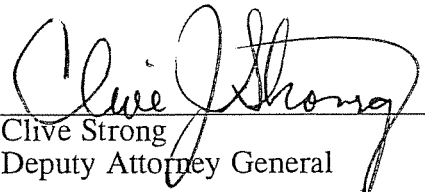
The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

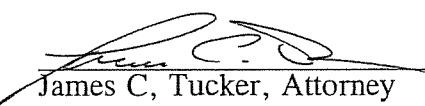
CLAIMANT:

State of Idaho
Idaho Water Resource Board

OBJECTOR

Idaho Power Company

 8/3/11
Clive Strong Date
Deputy Attorney General

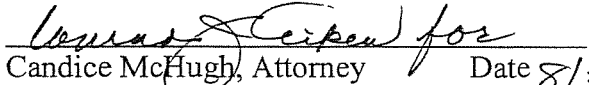
 8/3/2011
James C. Tucker, Attorney Date
Idaho Power Company

RESPONDENTS:

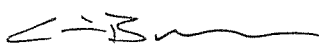
ABERDEEN AMERICAN FALLS
BINGHAM GROUND WATER DISTRICT
BONNEVILLE-JEFFERSON GROUND
CLARK JEFFERSON GROUND WATER
MADISON GROUND WATER DISTRICT

STANDARD FORM 5 - 02-223

MAGIC VALLEY GROUND WATER
NORTH SNAKE GROUND WATER

 for
Candice McHugh, Attorney Date 8/3/2011

IDWR Concurrence:

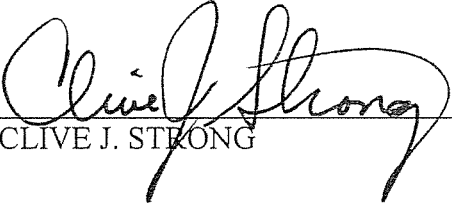
<u> 8-3-11</u>	<u> 8/3/11</u>
Carter Fritschle Date	for Andrea Courtney Date
Water Rights Adjudication Section Manager	Deputy Attorney General

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 4th day of August 2011, I caused a true and correct copy of the foregoing to be served on the following parties by the indicated methods:

Clerk of the District Court Snake River Basin Adjudication 253 Third Avenue North P. O. Box 2707 Twin Falls, Idaho 83303-2707	☐ U.S. Mail ☐ Hand Delivery ☐ Certified Mail, Return Receipt Requested ☐ Overnight Mail ☒ Facsimile: (208)736-2121 ☐ E-mail:
ABERDEEN AMERICAN FALLS BINGHAM GROUND WATER DISTRICT BONNEVILLE-JEFFERSON GROUND CLARK JEFFERSON GROUND WATER MADISON GROUND WATER DISTRICT MAGIC VALLEY GROUND WATER NORTH SNAKE GROUND WATER Represented by: CANDICE MC HUGH 101 S CAPITOL BLVD, STE 208 BOISE, ID 83702	☒ U.S. Mail ☐ Hand Delivery ☐ Certified Mail, Return Receipt Requested ☐ Overnight Mail ☐ Facsimile: ☐ E-mail: cmm@racinelaw.net
IDAHO POWER CO Represented by: ADAM T DEVOE BROWNSTEIN HYATT ET AL 410 17TH STREET, SUITE 2200 DENVER, CO 80202	☒ U.S. Mail ☐ Hand Delivery ☐ Certified Mail, Return Receipt Requested ☐ Overnight Mail ☐ Facsimile: ☐ E-mail: adevoe@bhfs.com
IDAHO POWER CO Represented by: JOHN K SIMPSON 1010 W JEFFERSON, STE 102 PO BOX 2139 BOISE, ID 83701-2139	☒ U.S. Mail ☐ Hand Delivery ☐ Certified Mail, Return Receipt Requested ☐ Overnight Mail ☐ Facsimile: ☐ E-mail: jks@idahowaters.com

STATE OF IDAHO IDAHO WATER RESOURCE BOARD 322 E FRONT ST PO BOX 83720 BOISE, ID 83720-0098	☒ U.S. Mail ☐ Hand Delivery ☐ Certified Mail, Return Receipt Requested ☐ Overnight Mail ☐ Facsimile: ☐ E-mail: idwrinfo@idwr.idaho.gov
DIRECTOR OF IDWR PO BOX 83720 BOISE, ID 83720-0098	☒ U.S. Mail ☐ Hand Delivery ☐ Certified Mail, Return Receipt Requested ☐ Overnight Mail ☐ Facsimile: chris.bromley@idwr.idaho.gov ☐ E-mail:


CLIVE J. STRONG

08/02/2011

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

RIGHT NUMBER: 2-223

NAME AND ADDRESS: STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 600.000 CFS

~~The rights listed below are limited to a total combined diversion rate of 3,900 cfs as established by the Swan Falls Agreement codified by §42-203B, Idaho Code. Combined Right Nos.: 2-100, 2-201, 2-223, and 2-4000A.~~

~~The quantity of this right is the average daily flow measured by the Murphy gaging station near river mile 453.5.~~

Water rights 02-00201 and 02-00223 are limited to a combined minimum flow rate of 3,900 CFS average daily flow from April 1 to October 31 as measured at the "Murphy Gaging Station," described below. Water rights 02-00201, 02-00223 and 02-00224 are limited to a combined minimum flow rate of 5,600 CFS average daily flow from November 1 to March 31 as measured at the "Murphy Gaging Station," described below.

PRIORITY DATE: 07/01/1985

~~Water right confirmed by legislative adoption of the State Water Plan, Policy 5A in 1992.~~

POINT OF
DIVERSION:

~~T01S R01W S35 NWNESE Lot 5 Begin of Stream Flow Within ADA County~~
~~T01S R01W S35 NWNESE Lot 5 End of Stream Flow Within ADA County~~

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MINIMUM STREAM FLOW	1/01 12/31	600.000 CFS
Use of water under this right shall be non-consumptive.		

PLACE OF USE:

Satisfaction of flow for this right is determined at the "Murphy Gaging Station" described below.

~~Place of use is within the reach above and below benefiting from the minimum stream flow at the point of measurement for this right.~~

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

1. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities.

CB CF
12A [Signature] CFS

2. The "Murphy Gaging Station" is located at T01S, R01W, S35, NWSE, Boise Meridian, on the right bank approximately 4.2 miles downstream from Swan Falls Power Plant.

3. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

4. This partial decree is subject to such general provisions necessary for the definition of the water 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. I.C. Section 42-1416(6).

EXPLANATORY MATERIAL: BASIS OF CLAIM - Statute

CA
LFA g C/S