

C. Tom Arkoosh, ISB #2253
CAPITOL LAW GROUP, PLLC
P.O. Box 32
Gooding, Idaho 83330
Telephone: (208) 934-8872
Facsimile: (208) 934-8873

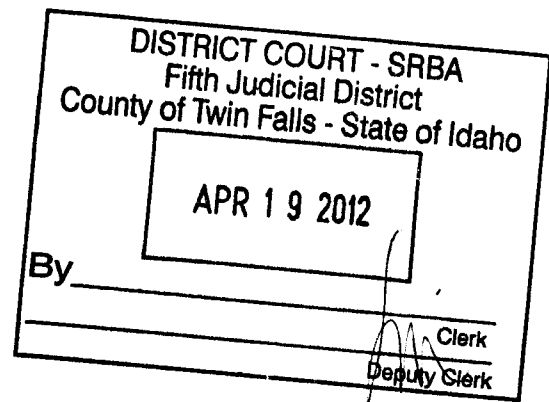
*Attorneys for American Falls Reservoir
District #2*

John K. Simpson, ISB #4242
Travis L. Thompson, ISB #6168
Paul L. Arrington, ISB #7198
BARKER ROSHOLT & SIMPSON LLP
P.O. Box 485
Twin Falls, Idaho 83303-485
Telephone: (208) 733-0700
Facsimile: (208) 735-2444

*Attorneys for A & B Irrigation District, Burley
Irrigation District, Milner Irrigation District,
North Side Canal Company, and Twin Falls
Canal Company*

W. Kent Fletcher, ISB #2248
FLETCHER LAW OFFICE
P.O. Box 248
Burley, Idaho 83318
Telephone: (208) 678-3250
Facsimile: (208) 878-2548

Attorneys for Minidoka Irrigation District



**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. Attachment A

**AFFIDAVIT OF PAUL L.
ARRINGTON**

I, PAUL L. ARRINGTON, being first duly sworn upon oath, deposes and hereby states
as follows:

1. I am an attorney representing A&B, BID, Milner, NSCC, and TFCC in the above-captioned matter. I am over the age of 18 and state the following based upon my own personal knowledge.

2. Attached hereto, as Exhibit A, is a true and correct copy of Exhibit A to the *Eagle Decree*, issued on July 10, 1968.

3. Attached hereto, as Exhibit B, is a true and correct copy of Exhibit B to the *Eagle Decree*.

4. Attached hereto, as Exhibit C, is a true and correct copy of Exhibit C to the *Eagle Decree*.

5. Attached hereto, as Exhibit D, is a true and correct copy of Exhibit E to the *Eagle Decree*.

6. Attached hereto, as Exhibit E, is a true and correct copy of Exhibit F to the *Eagle Decree*.

7. Attached hereto, as Exhibit F, is a true and correct copy of the Director's Recommendation for Water Rights 01-2064, dated December 16, 2006.

8. Attached hereto, as Exhibit G, is a true and correct copy of the Director's Recommendation for Water Rights 01-2068, dated December 16, 2006.

///

///

///

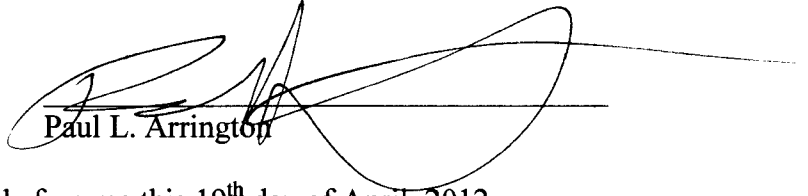
///

///

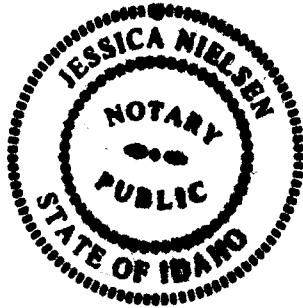
///

Further you affiant sayeth naught.

DATED this 19th day of April, 2012.


Paul L. Arrington

SUBSCRIBED AND SWORN to before me this 19th day of April, 2012.




Notary Public for State of Idaho
Residing at Twin Falls, Idaho.

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of April, 2012, I served a true and correct copy of the foregoing **AFFIDAVIT OF PAUL L. ARRINGTON** on the person(s) listed below, by U.S. Mail, and electronic mail if available:

Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

U.S. Bureau of Reclamation
Regional Director, PN Region
1150 N. Curtis Rd., Ste. 100
Boise, ID 83706-1234

Jerry R. Rigby
P.O. Box 250
Rexburg, ID 83440-0250

Adam T. Devoe
410 17th St., 22nd Floor
Denver, CO 80202

Randall C. Budge
Candice M. McHugh
P.O. Box 1391
Pocatello, ID 83201

U.S. Department of Justice
Division of Env. & Natural Resources
550 W. Fort Street, MSC 033
Boise, ID 83706-1234

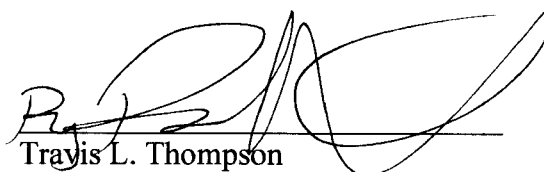
Idaho Attorney General's Office
Natural Resources Division
P.O. Box 44449
Boise, ID 83711-4449

Robert L. Harris
P.O. Box 50130
Idaho Falls, ID 83405

Josephine P. Beeman
409 W. Jefferson St.
Boise, ID 83702

James C. Tucker
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707

A. Dean Tranmer
P.O. Box 4169
Pocatello, Idaho 83201



Travis L. Thompson

ATTACHMENT A

01-2064
01-2064A
01-2064B
01-2064C
01-2064D
01-2064E
01-2064F
01-2064L
01-10042
01-10042A
01-10042B
01-10053A
01-10190

01-2068
01-2068D
01-2068E
01-2068F
01-2068M
01-2068Y
01-10043
01-10043A
01-10043E
01-10191
01-10389

Exhibit A

EXHIBIT "A"

Excerpt from United States Department of the Interior, Bureau of Reclamation, Minidoka and Palisades Projects, Idaho, Contract No. 14-06-W-28 with the North Side Canal Company, Ltd.

Saving of Winter Water: Special Storage Right

17. (a) The Company is hereby recognized as having the right to divert at Milner Dam for domestic and livestock uses during the months of November through March of each storage season not to exceed 126,000 acre-feet, but within this limitation:

If, taking account of all storable water, whether stored or not, Palisades and American Falls reservoirs fail to fill during the storage season in question, any water diverted by the Company during that storage season in excess of 126,000 acre-feet (but not to exceed the amount of deficiency in fill) will be charged as of the end of the storage season against the Company's allotment of American Falls storage,

and, beginning with the date announced by the Secretary as to the time when Palisades will be ready for operation, the Company shall confine its diversions from the Snake River during the months of November through March of each storage season to the rights here recognized.

(b) After Palisades Reservoir is in operation, the Company may, to the extent that it curtails its diversions during the months of November through March of any storage season below the rights defined in (a) of this article, store in that season an equivalent amount of saved water in either American Falls or Palisades Reservoir space available to it, the amount not to exceed 126,000 acre-feet in any storage season. This right to store water shall be prior in time

over the storage rights held by the United States for American Falls Reservoir (the latter having a priority dated March 30, 1921), or any storage rights held by the United States or the Company that are junior to the American Falls rights. The Company hereby consents to the granting of special storage rights with a like priority to other water users who, directly or indirectly, contract to curtail storage season diversions for not less than 150 consecutive days out of each storage season within these maxima as to total special storage rights:

- (1) For water users organizations and water users diverting above American Falls Dam — 135,000 acre-feet.
- (2) For water users organizations and water users diverting between American Falls and Milner Dam — 8,000 acre-feet, exclusive of the special storage rights described in (c) of this article.

(c) The Company also hereby consents to permitting the Twin Falls Canal Company to store, in either American Falls or Palisades Reservoir, during the months of November through March of each storage season under a priority like that provided in (b) above, water that would otherwise accrue to it within these rights:

The rights of the Twin Falls Canal Company to divert at Milner Dam for domestic and livestock uses during those months as follows:

150,000 acre-feet, but within this limitation:

If, taking account of all storable water, whether stored or not, Palisades and American Falls reservoirs fail to fill during any storage season, any water diverted by the Twin Falls Canal Company during that storage season in excess of 150,000 acre-feet (but not to exceed the amount of deficiency in fill) will be charged as of the end of that storage season against the Twin Falls Canal Company's allotment of American Falls storage.

This definition of rights of the Twin Falls Canal Company as a limitation on its rights, it is understood, need not be made operative until the first year in which that company exercises the special storage provision to which consent is here given.

Distribution of Rights to Share in Palisades Capacity
Made Available to the Company

18. Under the provisions of articles 16 and 17, the Company will be entitled to stored water accruing to a certain active capacity in Palisades Reservoir, which rights are in addition to those now appurtenant to lands owned by its stockholders which are included within the American Falls Reservoir District or within the Hillsdale Irrigation District. Subject to the payment of all proper assessments and levies and compliance with other conditions validly imposed under law, the rights to share in stored water so to become available and the obligation related thereto shall be apportioned equally and ratably among

all the outstanding shares of the Company's stock, it being understood for clarity that thirteen and eight tenths per cent (13.8%) of such rights is appurtenant to shares of Company stock which, as of the date of this contract, are appurtenant to lands within the boundaries of the Hillsdale Irrigation District and eighty-six and two tenths per cent (86.2%) of such rights is appurtenant to shares of Company stock which, as of the date of this contract, are appurtenant to lands within the boundaries of American Falls Reservoir District.

Provisions Relating to Exchange and Redefinition of
Existing American Falls and Jackson Lake Storage
Rights; Winter Power Operations at the Minidoka
Powerplant
(Articles 19 through 24)

Permanent Exchange of American Falls and Jackson Lake
Storage Rights

19. The United States, as of the date of this contract, operates and maintains for the benefit of lands in the lower valley served by the South Side Pumping and Gravity divisions of the Minidoka Project and by the Company the following capacities, respectively, in Jackson Lake Reservoir below elevation 6752:

Minidoka Project	325,810 acre-feet
Company	<u>10.000</u> acre-feet —
Total	335,810 acre-feet

Beginning October 1, 1952, there will be operated and maintained in Jackson Lake Reservoir, in lieu of the latter rights, the upper valley exchanged space as defined in article 20, and there will be made

Exhibit B

EXHIBIT "B".

Excerpt from United States Department of the Interior, Bureau of Reclamation, Minidoka and Palisades Projects, Idaho, Contract No. 14-06-W-28 with the North Side Canal Company, Ltd., prior to the execution of the amendatory and supplemental provisions which recognize the rights of the Minidoka Irrigation District as more particularly set out in Exhibit "E" hereto.

Provisions Relating to Exchange and Redefinition of
Existing American Falls and Jackson Lake Storage
Rights; Winter Power Operations at the Minidoka
Powerplant

(Articles 19 through 24)

Permanent Exchange of American Falls and Jackson Lake
Storage Rights

19. The United States, as of the date of this contract, operates and maintains for the benefit of lands in the lower valley served by the South Side Pumping and Gravity divisions of the Minidoka Project and by the Company the following capacities, respectively, in Jackson Lake Reservoir below elevation 6752:

Minidoka Project	325,810 acre-feet
Company	<u>10,000</u> acre-feet —
Total	335,810 acre-feet

Beginning October 1, 1952, there will be operated and maintained in Jackson Lake Reservoir, in lieu of the latter rights, the upper valley exchanged space as defined in article 20, and there will be made

available to the Company fifty-nine hundredths per cent (0.59%) of the active capacity of American Falls Reservoir (being 10,000 acre-feet in terms of a total active capacity of 1,700,000 acre-feet), this comprising part of the lower valley exchanged space as defined in article 20.

Definition of Upper Valley Exchanged Spaces
Guarantee in Event Lower Valley Exchanged Space Fails to Fill

20. It is anticipated that various upper valley holders of storage rights in American Falls Reservoir will have acquired in lieu of those rights seventy-six and seven tenths per cent (76.7%) of the total active capacity in Jackson Lake Reservoir as of October 1, 1952, these rights in Jackson Lake Reservoir being hereinafter called the upper valley exchanged space; and nineteen and seventy-five hundredths per cent (19.75%) of the active space in American Falls Reservoir will be held for the South Side Pumping and Gravity divisions of the Minidoka Project (nineteen and sixteen hundredths per cent (19.16%)) and the Company (fifty-nine hundredths per cent (0.59%)), these rights being hereinafter called the lower valley exchanged space. The seventy-six and seven tenths per cent (76.7%) in Jackson Lake and the nineteen and seventy-five hundredths per cent (19.75%) in American Falls shall, so long as the respective total active capacities are not less than 847,000 and 1,700,000 acre-feet, be treated as the equivalent of 335,810 acre-feet. The latter figure may, however, be adjusted from time to time by agreement between the Secretary and the Advisory Committee whenever there are determinations that the active capacities are other than

above stated. Beginning with the 1952-1953 storage season, there shall be a determination, at the end of each storage season in which the lower valley exchanged space fails to fill, taking carryover storage into account, (1) of the amount by which the American Falls storable inflow to which the lower valley exchanged space was entitled during that season failed to fill that space; and (2) of the amount, if any, by which the Jackson Lake storable inflow to which the upper valley exchanged space was entitled during that season failed to fill that exchanged space. If the amount under (1) exceeds that under (2), there shall be credited to the lower valley exchanged space and charged to the upper valley exchanged space an amount of stored water equal to the difference, but not in excess of the amount required to fill the lower valley exchanged space as of the end of that storage season. The determinations under this article shall be made by a committee of three comprising the state watermaster of District No. 36, a representative to be selected jointly by the Burley and Minidoka irrigation districts and the Company, and the officer of the United States in charge of the Minidoka Project.

Redefinition of Company's Jackson Lake Storage Rights

21. (a) The United States will operate and maintain Jackson Lake Reservoir and, beginning October 1, 1952, will make available to the Company stored water accruing to seventy-six and two thousand four hundred ninety-nine ten thousandths per cent (76.2499%) (312,007 acre-feet of present capacity) of the capacity in the reservoir above

elevation 6752 and will operate the entire reservoir in accordance with the following criteria:

The entire reservoir will be operated so as to hold over, in any space available in the reservoir, from one irrigation season to the next for use in that next season, stored water to which any holder of space in the reservoir is entitled, but the total amount of stored water which will be held for the use of any holder of space during any irrigation season shall not exceed the space available to that holder. The United States shall, however, in its operation of the reservoir, have the right, after consultation with the Advisory Committee, to lower the water surface elevation in Jackson Lake in each storage season in order to avoid damage to the dam during winter weather and to provide incidental flood control, but, except in cases of operation and maintenance emergencies, such release of water shall not result in loss of storable water in that storage season. If losses do result, these shall be prorated equally over all space in the reservoir and shall be charged against stored water including that, if any, carried over from prior irrigation seasons. Determination of the relative rights of the various holders of space in the reservoir to reservoir inflow during each storage season shall, however, continue to be on the basis of the difference in priorities for the storage of water held by

the United States for the capacity below elevation 6752 and those held for the capacity above that elevation.

(b) Stored water available under the rights in Jackson Lake Reservoir as defined in this article shall be available for delivery to the Company during any irrigation season within these limitations:

(1) Except in cases of emergency, deliveries shall be limited to periods when the Company's natural flow rights and rights to water stored in reservoirs downstream from Jackson Lake Reservoir are not sufficient to meet the Company's irrigation water requirements.

(2) Deliveries shall be limited at any time to the amount which can be delivered by means of the Company's proportionate share of the outlet capacity, taking into account the requirement of passing prior natural flow rights through the reservoir and the physical limitations of the existing outlet works.

Operation and Maintenance Obligation - Jackson Lake

22. (a) The Company, during the period of operation and maintenance of Jackson Lake Dam and Reservoir by the United States, shall pay to the United States thirty-six and eighty-four hundredths per cent (36.84%) of the costs of operating and maintaining that dam and reservoir, including whatever costs may be incurred in the delivery of water therefrom.

Exhibit C

EXHIBIT "C"

Excerpt from United States Department of the Interior, Bureau of Reclamation, Minidoka and Palisades Projects, Idaho, Contract No. 14-06-W-59 with the American Falls Reservoir District.

Provisions of General Application to All
Rights Established or Defined by This
Contract
(Articles 19 through 43)

Temporary Storage and Exchange of Water: Release of Jackson
Lake and Palisades Water for Power Production

19. (a) It is the purpose of the United States and the water users having storage rights in the reservoir system (including the District) to have the reservoir system so operated as to effect the greatest practicable conservation of water. In keeping with this purpose, the endeavor will be to hold stored water in reservoir system space that is farthest upstream. Water in storage in any of the reservoirs of the system may, however, when the watermaster and the Advisory Committee determine this to be in the

interest of water conservation, be held temporarily in unoccupied space in any other reservoir of the system. And the District hereby consents to the making, with the approval of the watermaster, of annual exchanges of stored water among the various reservoirs of the system. No such temporary holding of water or such annual exchanges shall, however, deprive any entity of water accruing to space held for its benefit.

(b) During any storage season, the United States, after consultation with the 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, as Jackson Lake or Palisades water as the case may be, in American Falls Reservoir. The release of such water will be confined, however, in storage seasons when it appears that American Falls, Palisades, and Jackson Lake reservoirs will fail to fill, to water required for the maintenance of a minimum firm power production (estimated to be about 11,000,000 kilowatt-hours per month at an average production of 15,000 kilowatts) and 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.

Rental of Water: Sale of Space.

20. (a) The District may rent stored water which has accrued to its credit in any reservoir of the system, but such rentals shall be for only one year at a time and at rates to be approved in advance by the Secretary and the Advisory Committee. Rates shall not exceed the annual costs under

Exhibit D

EXHIBIT "E"

Excerpt from United States, Department of the Interior, Bureau of Reclamation, Contract with Minidoka Irrigation District Concerning Storage Capacity in American Falls, Jackson Lake and Palisades Reservoirs, and Related Matters; Contract No. 14-06-100-1833.

PROVISIONS RELATING TO REDEFINITION OF EXISTING JACKSON
LAKE STORAGE RIGHTS AND ANNUAL EXCHANGES THEREOF;
CARRYOVER RIGHTS AND RIGHTS TO RELEASE OF WATER
AND RELATED MATTERS; OPERATION AND MAINTENANCE
OBLIGATIONS—JACKSON LAKE; WINTER POWER OPERA-
TION; MINIDOKA POWERPLANT
(Articles 21 through 24)

REDEFINITION OF JACKSON LAKE STORAGE RIGHTS OF
DISTRICT AND WATER USERS COMING WITHIN ITS
JURISDICTION; AND ANNUAL EXCHANGES THEREOF

21. (a) The United States will continue to operate and maintain the existing Jackson Lake Reservoir and, beginning October 1, 1958, will make available to the District stored water accruing to 42.49% of the active capacity of that reservoir below elevation 6752, within the limits and on the terms and conditions provided in this contract. This percentage shall, so long as the reservoir has a total active capacity of 847,000 acre-feet, be treated as the equivalent of one hundred eighty-six thousand thirty (186,030) acre-feet of active capacity below elevation 6752. The latter figure may, however, be adjusted from time to time by agreement between the Secretary and the Advisory Committee whenever there are determinations that the active capacity is other than above stated.

(b) After the District's irrigation season commences in any calendar year, as determined by the Watermaster, the District shall have the right to effect annual exchanges of water out of stored water that is exchangeable, not to exceed the extent of the District's use of Jackson Lake stored water in that year, if requested by written notice within 60 days after the commencement of the District's irrigation season in that calendar year. Any such exchanges shall be made out of water stored to the credit of upper valley water users in American Falls Reservoir or out of any water in that reservoir that is available for exchange. To the extent that there is water to effect such exchanges, they shall be effected without charge for transmission losses between Jackson Lake and American Falls Reservoir. The request for such exchanges made by the District shall be directed in writing to the officer in charge of the Minidoka Project and the Watermaster and those officers shall forthwith initiate and carry through the exchanges within the limits herein stated.

HOLDOVER RIGHTS AND RIGHTS TO RELEASE
OF WATER AND RELATED MATTERS

22. (a) Beginning with the 1958-1959 storage season, the United States will operate Jackson Lake Reservoir so as to hold over, in any space available in the reservoir, from one irrigation season to the next for use in that next season, stored water to which any holder of space in the reservoir is entitled, but the total amount of stored water which will be held for the use of any holder of space during any irrigation season shall not exceed the space available to that holder.

The United States shall, however, in its operation of the reservoir, have the right, after consultation with the Advisory Committee, to lower the water surface elevation in Jackson Lake in each storage season in order to avoid damage to the dam during winter weather and to provide incidental flood control, but, except in cases of operation and maintenance emergencies, such release of water shall not result in loss of storable water in that storage season. If losses do result these shall be prorated equally over all space in the reservoir and shall be charged against stored water including that, if any carried over from prior irrigation seasons. Determination of the relative rights of the various holders of space in the reservoir to reservoir inflow during each storage season shall, however, continue to be on the basis of the difference in priorities for the storage of water held by the United States for the capacity below elevation 6752 and those held for the capacity above that elevation. Reservoir permits issued by the state of Wyoming for the capacity below elevation 6752 are as follows:

<u>Permit No.</u>	<u>Capacity in acre-feet</u>	<u>2/</u>	<u>Priority</u>
R 894	299,000		August 23, 1906
R 1903	392,990		August 18, 1910
R 2185	438,000		July 24, 1911

The capacity below elevation 6752 shall continue to be operated, as it has been historically, on a pooled or vertical basis as to priorities with respect to storable inflow.

(b) Stored water accruing to the rights in Jackson Lake Reservoir as defined in this article shall be available for physical delivery to the District during any irrigation season within these limitations:

2/ Capacities are stated in cumulative totals.

(1) Except in cases of emergency, deliveries shall be limited to periods when the District's natural flow rights and rights to water stored in Palisades and American Falls Reservoirs downstream from Jackson Lake Reservoir are not sufficient to meet the District's irrigation water requirements, but this provision, except for limitations in the District's and in the landowners' reservoir capacity, does not preclude the District from designating for purposes of allocation, on paper, reservoirs from which the District and its water users are to receive the water, or from designating the reservoir in which the carry-over water will be stored at the end of a particular irrigation season.

(2) Deliveries shall be limited at any time to the amount which can be delivered by means of the District's proportionate share of the outlet capacity, taking into account the requirement of passing prior natural flow rights through the reservoir and the physical limitations of the existing outlet works.

(c) All carry-over of stored water in Jackson Lake Reservoir, whether held under individual water right applications coming within the jurisdiction of the District or in the name of the District itself, shall be restricted to the carry-over rights as defined in this article as being held for the District and to those held under water right applications

to lands within the jurisdiction of the District, and other carry-over or drop-down rights or claims of rights are hereby abandoned.

(d) Rights under the interim exchange arrangement which was consummated in 1955 and extended from year to year since that date are terminated as of October 1, 1958, but any stored water then carried over in the District's share of the lower valley exchanged space, as defined in that interim arrangement, will be carried as a credit to the District's Jackson Lake capacity as defined in this article as of the beginning of the 1958-1959 storage season.

OPERATION AND MAINTENANCE OBLIGATION—JACKSON LAKE

23. (a) The District, during the period of operation and maintenance of Jackson Lake Reservoir by the United States, shall pay to the United States twenty-one and nine thousand six hundred thirty-four ten thousandths percent (21.9634%) of the costs of operating and maintaining that reservoir, including whatever costs may be incurred in the delivery of water therefrom.

(b) Beginning with the 1959 irrigation season, payment of the District's obligation under (a) above shall be made for each calendar year on the basis of annual estimates by the Secretary. The notice of these annual estimates, hereinafter referred to as the operation and maintenance charge notice, shall contain a statement of the estimated cost of operation and maintenance under (a) above to be incurred in the calendar year involved, and the amount of the District's share of these estimated costs. The operation and maintenance charge notice shall be furnished to the District on or before February 1 of the calendar year

for which the notice is issued, but, when requested by the District, a preliminary estimate shall be given at such earlier date as is agreed upon in writing. The District shall pay the amount stated in the notice on or before April 1 of the year for which issued or such other date as may be agreed on.

(c) Whenever, in the opinion of the Secretary, funds so advanced will be inadequate to meet the costs under (a) above, he may give a supplemental operation and maintenance charge notice, stating therein the amount of the District's share of the additional funds required, and the District shall advance that additional amount on or before the date specified in the supplemental notice. If the funds advanced by the District under this article exceed the District's share of the actual cost under (a) above for the year for which advanced, the surplus shall be credited on the charges to become due for succeeding years.

WINTER POWER OPERATION; MINIDOKA POWER PLANT

24. (a) The United States, in its operation of American Falls and Minidoka dams during the storage season of each year is required to pass through enough water to satisfy existing diversion rights in the stretch of river down to and including Milner Dam and certain power rights below Milner Dam, and has the privilege under an existing decree to use at Minidoka Dam 2700 cubic feet per second of water for the development of power. While the United States must operate the American Falls and Minidoka dams so as not to interfere with these third-party rights, it will be the objective of the United States in the operation of both its

American Falls and Minidoka powerplants to curtail the release of additional water from American Falls Reservoir for power production at those powerplants during the storage season of any year whenever operation of those powerplants to the full extent of their respective water rights for power production would result in loss of irrigation water otherwise storable in the reservoir system. Accordingly, except as it is determined by the Secretary that additional water may be passed through American Falls and Minidoka dams without the loss of water that could be stored for irrigation in the reservoir system, the United States has, during each storage season beginning October 1, 1952, and ending in 1958, and will, commencing with the storage season of 1958-1959 and continuing so long as the provisions of (c) of this article remain operative, limit the release of water through those dams as follows:

To the amount of water required to provide flows below Minidoka Dam sufficient to meet existing diversion rights in the reach of the river through Milner Dam and the power rights required to be recognized under the provisions of the contract of June 15, 1923, between the United States and the Idaho Power Company (Symbol and No. IIR-733), as those diversion and power rights may be modified from time to time.

To the extent that it is practicable to do so, the Advisory Committee and the District will be informed in advance of any plans for the release of water in excess of the foregoing limitations; and that Committee will be furnished written reports as of the close of the storage season of each year showing, among other things, the releases actually made and the minimum releases required to be made.

(b) Curtailment of releases as provided in (a) of this article will result in there being, in some years, additional water available for storage for irrigation purposes in American Falls, Island Park, and Palisades reservoirs. In any storage season when these reservoirs fail to fill, the saved water attributable to such curtailment shall be credited, first, to Island Park Reservoir to the extent of 45,000 acre-feet without regard to the priority of the storage permits held for that reservoir, and thereafter to American Falls, Island Park, and Palisades reservoirs in the order of priority of their respective storage permits, the crediting to Island Park Reservoir and to any storage right in any other reservoir (except the lower valley exchanged space in American Falls Reservoir) being contingent on the owners of these rights obligating themselves for their share of the annual payments for power replacement in keeping with the provisions of (e) of this article.

(c) For the purposes of this contract and without relinquishment of any part of the power rights herein described, it is assumed that but for curtailment of operations as provided in (a) of this article, units 1 through 6 of the Minidoka powerplant would be operated to the maximum extent practicable within the limits of the power rights therefor (2,700 second-feet as decreed by the District Court of the Fourth Judicial District of Idaho on June 20, 1913, in the case of Twin Falls Canal Company v. Charles N. Foster et al.), and that in consequence of operations under this article there may be losses in the production of power and energy attributable to those

units. Payment for such power and energy losses shall be made, on the basis of an average annual replacement requirement, by all contractors having reservoir rights benefiting from the water savings resulting from operations under the provisions of (a) of this article in annual amounts determined as follows:

(1) Prior to the date when either the American Falls powerplant or Palisades dam powerplant is first in service, the payment for any year shall be the product, in dollars, of the then controlling average annual replacement requirement, in kilowatt-hours, times four mills (\$0.004).

(2) Beginning with the date when either the American Falls powerplant or Palisades dam powerplant is first in service, the payment for any year shall be the product, in dollars, of the then controlling average annual replacement requirement, in kilowatt-hours, times the price per kilowatt-hour, figured at 100 percent load factor, under the then existing rate schedule for the sale of firm power and energy from the plant or plants involved.

In determining replacement requirements under this article, no account is intended to be taken, by way of offset or otherwise, of the effect of any reservoir system storage operations on the seventh unit of the Minidoka powerplant. The amount to be paid by the District annually shall be limited, however, to that apportionable under the provisions

of (e) of this article to the District's rights in American Falls Reservoir under the provisions of article 10 and the District's rights in Palisades Reservoir under the provisions of article 16.

(d) The replacement requirements for the year ending September 30, 1953, shall be 5,699,000 kilowatt-hours, being the average annual replacement requirement for the period beginning October 1, 1931, and ending September 30, 1951. The average annual replacement requirement under either (1) or (2) of (c) above for the year ending September 30, 1954, shall be the average of the annual replacement requirements for each year of the 20-year period ending September 30, 1953, and for each 12-month period after September 30, 1954, shall be the average of the annual replacement requirements of each year of the 20-year period ending on September 30 of the prior year. In deriving this average there shall be used, as annual net power production losses for each year, the annual figures for the years through September 30, 1951, as shown in Table 1 of the document entitled "Criteria and Method for Determination of Certain Minidoka Powerplant Production Losses from Restrictions on Use of Water Rights"^{3/}, and for each year thereafter, a net power production loss calculated on the basis of the comparison of (1) the total energy that could have been produced by units 1 through 6 of the Minidoka powerplant based on the

^{3/} Duplicate originals of this document shall be filed with the Watermaster of District No. 36, the officer of the United States in charge of the Minidoka Project, and the Burley Irrigation District.

water flows actually recorded at the U.S.G.S. Minidoka gaging station (hereinafter called the Minidoka gage), corrected as hereinafter provided, and (2) the energy which theoretically could have been generated at those units with the flows at the Minidoka gage without a curtailment in winter power operation as provided in this article and exclusive or irrigation storage releases. Using calculations reached as to flows and heads, the power loss calculations will be made by utilizing the power production curves shown in drawing No. 17-100-139, as revised, incorporated by reference in the document identified above, but increases in energy in any year by reason of taking American Falls storage into account as provided in subparagraph (3) of this subarticle (d) shall be accounted for as compensating offset up to but not exceeding energy losses accruing in that year by reason of curtailment in power operations under this article.

To correct flows under (1) above, all storage releases except American Falls shall be excluded and the measure of American Falls storage passing the Minidoka gage shall be the increase in storage at that gage over that computed at the Blackfoot gaging station as shown in the annual report entitled "Water Distribution and Hydrometric Work, District 36, Snake River, Idaho", the latter further corrected for any American Falls storage that may have been present by reason of having been stored temporarily upstream and that portion of Palisades storage which was diverted above the Minidoka gage. In measuring American Falls storage, it shall be assumed that storage is released in the order provided in article 19. The flow at the Minidoka gage

without storage shall be taken to be the normal flow at that gage as shown by that same report. In determining water flows, with and without curtailment of power operations as provided in this article, these assumptions shall be used with respect to units 1 through 6 of the Minidoka powerplant:

(1) There is a right for power production to maintain a flow of 2,700 second-feet at Minidoka Dam during the storage season of each year in accordance with the decree entered June 20, 1913, supra, if that flow, dis-regarding the storage of saved water in the reservoir system under the provisions of this article, would be available at Minidoka Dam.

(2) There is a right to use, within the hydraulic capacity of these units, whatever natural flow passes Minidoka Dam during each irrigation season.

(3) Although there is no right to have water stored under American Falls Reservoir rights released for power production during the period that such storage is being released for irrigation there will be more energy produced by these units than is attributable to the natural-flow rights therefor, which shall be taken into account as a compensating offset as provided above in this subarticle (d).

To determine controlling power heads, the effective power head for any period shall be derived on the basis of recorded forebay and tailwater elevations for that period.

The foregoing criteria for determinations of annual net power production losses may be changed from time to time but only if the changes are made in writing with the approval of the Secretary, the Advisory Committee, and the boards of directors of both the Minidoka and Burley irrigation districts. Determinations as to net power production losses for each year and the average annual replacement requirement under this article shall be made by the committee of three comprising the State Watermaster of District No. 36, a representative to be selected jointly by the Burley and Minidoka irrigation districts and the North Side Canal Company, Ltd., and the officer of the United States in charge of the Minidoka Project, but, should the Committee fail to make a determination for any year by January 1 of the year for which the determination is required, it may be made by the Secretary and reported to the District.

(e) The annual payment determined as provided in this article shall be apportioned among the benefiting reservoirs as follows:

(1) prior to the first full storage season during which Palisades Reservoir is in operation, eighty-eight percent (88%) to American Falls Reservoir and twelve percent (12%) to Island Park Reservoir; and (2) beginning with the first full storage season of Palisades operation, seventy-eight percent (78%) to American Falls, twelve percent (12%) to Island Park, and ten percent (10%) to Palisades. The amount apportioned to each reservoir shall be accounted for as part of the operation and maintenance costs for which provisions for payment for the District's share is made elsewhere in this contract. The

amount apportioned to American Falls Reservoir shall be distributed equally over all space available for irrigation storage, including the 33,563 acre-feet of space available to the District under the provisions of article 10 and the 50,000 acre-feet that were initially made available to the District under the contract of February 11, 1927, except that in lieu of the lower valley exchanged space there shall be included the upper valley exchanged space in Jackson Lake Reservoir.

(f) If the owners of any storage rights to benefit from the operation of this article fail to obligate themselves for their share of the annual payments for power replacement hereunder, the saved water creditable to such rights and the power replacement costs chargeable thereto shall be redistributed according to a formula to be agreed on in writing between the Secretary and the Advisory Committee. Such formula shall, however, be as nearly consistent as practicable with the formula that would control but for such redistribution.

(g) In order to permit the operation of the Minidoka power system with a power supply undiminished by water savings operations under this article, the United States, as the operator of the Minidoka powerplant and of other interconnected powerplants operated under the Federal Reclamation Laws, will, to the extent authorized by law, make available to the Minidoka powerplant at rates established under law an amount of power and energy equivalent to that lost by reason of such water savings operations. In determining the net profits attributable to the first six units of the Minidoka powerplant which are, under the provisions of subsection I of section 4 of the act of December 5, 1924

(43 Stat. 703), and under existing contracts with the District and others, to be credited to the lands of the Gravity and South Side Pumping divisions of the Minidoka Project, all payments made by the owners of storage rights in the reservoir system in pursuance of the apportionment of power replacement charges as provided in (e) of this article shall be accounted for as revenues attributable to those six units, and such payments will, for the period that the United States is obligated to curtail power operations as provided in (a) of this article, be accepted by the District, to the extent of its interest in the net profits attributable to the first six units, as full settlement for losses resulting from such curtailed operations.

PROVISIONS RELATING TO STATUS OF
CERTAIN EXISTING RIGHTS; DELIVERY
OF WATER AT HEADWORKS
(Articles 25 through 26)

STATUS OF CERTAIN EXISTING CONTRACTS WITH THE DISTRICT

25. Except to the extent that the provisions of this contract are in conflict therewith, the provisions of the existing contracts between the United States and the District, particularly the provisions of the contract of February 11, 1927, with respect to the 50,000 acre-feet of storage capacity in American Falls Reservoir, shall remain unaffected by this contract.

DELIVERY OF WATER AT HEADWORKS

26. Deliveries to the District of water to which it, or its water users, are entitled, both natural flow and stored water, will be made at the headworks of the main canals in the amounts requested by the

District within the limits of safe operating capacity of the facilities involved and the limitations of the contract of December 12, 1950, as to the main South Side Canal, if water within the entitlements of the District is available in sufficient quantity to meet the requests.

PROVISIONS OF GENERAL APPLICATION TO ALL RIGHTS
ESTABLISHED OR DEFINED BY THIS CONTRACT
(Articles 27 through 54)

TEMPORARY STORAGE AND EXCHANGE OF WATER; RELEASE OF JACKSON
LAKE AND PALISADES WATER FOR POWER PRODUCTION

27. (a) It is the purpose of the United States and the water users having storage rights in the reservoir system (including the District) to have the reservoir system so operated as to effect the greatest practicable conservation of water, but this provision deals exclusively with the physical storing of water and does not derogate from the right of the District, on paper, to the extent of available capacity held either in the District's name or in the name of its water users under water right applications, from designating the reservoir from which water will be received during the irrigation season involved, or from designating at the end of particular seasons where the carryover waters will be held. In keeping with this purpose, the endeavor will be to hold stored water in reservoir system space that is farthest upstream. Water in storage in any of the reservoirs of the system may, however, when the Watermaster and the Advisory Committee determine this to be in the interest of water conservation, be held temporarily in unoccupied space in any other reservoir of the system. And the District hereby consents to the making, with the

approval of the Watermaster, of annual exchanges of stored water among the various reservoirs of the system. No such temporary holding of water or such annual exchanges shall, however, deprive any entity of water accruing to space held for its benefit.

(b) During any storage season, the United States, after consultation with the 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, as Jackson Lake or Palisades water as the case may be, in American Falls Reservoir. The release of such water will be confined, however, in storage seasons when it appears that American Falls, Palisades, and Jackson Lake reservoirs will fail to fill, to water required for the maintenance of a minimum firm power production (estimated to be about 11,000,000 kilowatt-hours per month at an average production of 15,000 kilowatts) and 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.

Exhibit E

EXHIBIT "F"

Excerpt from United States Department of the Interior, Memorandum of Agreement Between The Bureau of Reclamation and The Bureau of Indian Affairs Relating to Water Supply for Michaud Division of the Fort Hall Indian Reservation, Idaho, Draft of April 9, 1957, as approved April 25, 1957, by E. G. Nielsen, Assistant Commissioner, Bureau of Reclamation, W. Barton Greenwood, Deputy Commissioner, Bureau of Indian Affairs, and Fred G. Anadahl, Assistant Secretary of the Interior.

Delivery of Water; Measurement and Losses; Return Flow

8. (a) To the extent that water is pumped from wells and from surface streams that flow into American Falls Reservoir, actual measurements at the well heads and at the discharge lines of other pumping plants delivering water for the said Michaud Division shall be made during each irrigation season. All water provided through the Michaud Division system for the irrigation of lands of the Michaud Division of the Fort Hall Indian Reservation from any and all sources in any irrigation season shall be accounted for as water stored for the Indian Bureau as provided in article 4 and charged thereto, except:

(1) Surface waters that may be available under flood water rights that may be obtained with a priority of not earlier than one year before the priority held for Palisades Reservoir; and

(2) Not to exceed an average annual amount of 22,400 acre-feet, as prescribed by Section 3(b)(1) of said act of August 31, 1954 (Supra) calculated over a ten-year period including the irrigation season just ended and the preceding nine irrigation seasons, from ground water pumped any place in the Michaud Division system. Until a full ten-year period is available, the average shall be for the years of project operation.

Delivery of water to lands of the said Michaud Division that as above provided in this article is chargeable to stored water for any irrigation season, shall be limited, however, to the quantities of stored water available as provided in article 4, and the supply of water available from all sources through the Michaud Division system shall be limited to the irrigation of not to exceed 21,000 acres of land. Lands within the outer boundaries of the Michaud Division, but which do not share in the water supply provided by this agreement, are hereby excluded from any of the benefits of this agreement, of the act of August 31, 1954, and of the Michaud Division system.

(b) The water chargeable to Indian Bureau stored water as provided in this article shall be determined from day to day during the irrigation season of each year. Corresponding credits from day to day shall be given by the watermaster to the water rights, whether natural flow or storage rights, that have been infringed on by pumping for the Michaud Division. The amounts represented by such infringements, to whomever they shall accrue, shall be made up out of stored water available to the Indian Bureau under this agreement, from day to day, if necessary. The determination of the charges and the credits hereunder shall be under a formula to be devised by the watermaster, after consultation with the Advisory Committee, taking into account as one factor the so-called Newell formula with respect to the inflow into American Falls Reservoir, as this formula is affected, in the judgment of the watermaster.

by operation of this contract and by other factors that affect the formula. Departures from that formula shall be called to the attention of the Advisory Committee from time to time.

(c) In addition to other specific provisions as to the distribution of losses chargeable to stored water, there shall be charged against stored water held under this agreement to the credit of the Indian Bureau at the end of any irrigation season one and one-half per cent ($1\frac{1}{2}\%$) to offset evaporation losses. Such charge shall be made as of not later than the end of the ensuing storage season.

(d) The Indian Bureau shall make no claim on behalf of the United States or of any individual, community or band of Indians of any surface return flows from the Michaud Division after they enter American Falls Reservoir, except as they are recaptured before leaving the Division, and are used directly on the land of that Division. Nor shall any such claim be made for underground flows except to the extent covered by paragraph (a) of this article. Return flows hereby relinquished, whether surface or underground, shall be credited either to the river or to the reservoir in accordance with the relative priorities heretofore or hereafter established under the laws of the State of Idaho.

Exhibit F

Place of use for irrigation from storage is within the following counties:
Fremont, Madison, Jefferson, Bonneville, Bingham, Bannock, Power,
Minidoka, Cassia, Lincoln, Jerome, Twin Falls, Gooding, and Elmore.

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

Although the name of the United States of America acting through the Bureau of Reclamation appears in the Name and Address section of this partial decree, the ownership of this water right is divided. The United States Bureau of Reclamation holds nominal legal title. Beneficial or equitable title to this water right is held in trust by the irrigation organizations, in the quantities and/or percentages specified in the contracts between the Bureau of Reclamation and the irrigation organizations, for the benefit of the landowners entitled to receive distribution of this water from the respective irrigation organizations pursuant to Idaho law. As a matter of law, this interest is appurtenant to the lands within the boundaries of or served by such irrigation organization. The ownership of this water right is derived from law and is not based exclusively on the contracts between the Bureau of Reclamation and the irrigation organizations.

A portion of this right is designated as the first to fill for the benefit of the contract holders as provided in the provisions for saving winter water as recognized in 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).

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.

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

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

Exhibit G

12/16/2006

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

RIGHT NUMBER: 1-2068

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

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 1,200,000.00 AFY

Total reservoir active capacity is 1,200,000 acre feet when filled to elevation 5620 and measured at the upstream face of the dam.

PRIORITY DATE: 07/28/1939

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.

POINT OF
DIVERSION:

T01S R45E S17 NENE Lot 1 Within BONNEVILLE County
T01S R45E S17 NWNE Lot 2 Within BONNEVILLE County
T01S R45E S17 SWNE Lot 3 Within BONNEVILLE County
T01S R45E S17 SENE Lot 4 Within BONNEVILLE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
POWER FROM STORAGE	01/01 12/31	1,200,000.00 AFY
POWER STORAGE	01/01 12/31	1,200,000.00 AFY
IRRIGATION STORAGE	01/01 12/31	1,200,000.00 AFY
IRRIGATION FROM STORAGE	03/15 11/15	1,200,000.00 AFY

PLACE OF USE:

Place of use for irrigation storage and power storage is Palisades Reservoir, provided, however, that water under this right may be temporarily held in the unoccupied space of any of the reservoirs upstream of Milner Dam, located at township 10S, range, 21E, sections 28 and 29, when determined by the Department of Water Resources, the Water District advisory committee, and the United States Bureau of Reclamation that such temporary storage will maximize the storage of water upstream of Milner Dam.

Place of use for irrigation from storage is within the following counties: Fremont, Madison, Jefferson, Bonneville, Bingham, Bannock, Power, Minidoka, Cassia, Lincoln, Jerome, Twin Falls, Gooding, and Elmore.

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

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.

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.

Although the name of the United States of America acting through the Bureau of Reclamation appears in the Name and Address section of this partial decree, the ownership of this water right is divided. The United States Bureau of Reclamation holds nominal legal title. Beneficial or equitable title to this water right is held in trust by the irrigation organizations, in the quantities and/or percentages specified in the contracts between the Bureau of Reclamation and the irrigation organizations, for the benefit of the landowners entitled to receive distribution of this water from the respective irrigation organizations pursuant to Idaho law. As a matter of law, this interest is appurtenant to the lands within the boundaries of or served by such irrigation organization. The ownership of this water right is derived from law and is not based exclusively on the contracts between the Bureau of Reclamation and the irrigation organizations.

A portion of this right is designated as the first to fill for the benefit of the contract holders as provided in the provisions for saving winter water as recognized in 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).

EXPLANATORY MATERIAL: BASIS OF CLAIM - License