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DEPARTMENT OF
WATER RESOURCES

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Counsel for the United States of America

**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.: 01-02064, <i>et al.</i> &
	)	01-02068, <i>et al.</i> (See Attachment A)
Case No. 39576	)	
	)	AFFIDAVIT OF
_____	)	DAVID A. JARVIS

STATE OF COLORADO	)
	)ss.
City and County of Denver	)

AFFIDAVIT

I, DAVID A. JARVIS, being of lawful age and having been first duly sworn, state the following:

1. I make the following statements based upon personal knowledge and am competent to testify thereto.

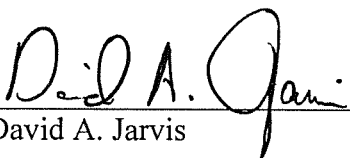
2. I am a paralegal with USIS | Labat, a government contractor which provides paralegal services to the U.S. Department of Justice.

3. I provide paralegal support to Environment and Natural Resources Division attorneys who represent the interests for the United States in the Snake River Basin Adjudication. I have performed this role for approximately ten (12) years. As part of my duties, I act as the custodian of SRBA files for the United States Department of Justice, and am familiar with the court filings served upon the United States and the documents filed by the United States in the SRBA.

4. I attest that attached as Exhibit 1 is a true and correct copy of Contract No. 14-06-W-28, dated February 29, 1960.

5. I attest that attached as Exhibit 2 is a true and correct copy of excerpted pages from The 1990 Fort Hall Indian Water Rights Agreement.

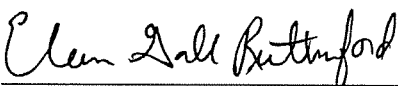
DATED this 7 day of June, 2012.


David A. Jarvis

SUBSCRIBED AND SWORN to before me this 7th day of June, 2012



My Commission Expires 8/27/2012


Eileen Gall Rutherford
Notary Public for Colorado
Residing at:
My Commission Expires:

CERTIFICATE OF SERVICE

I certify that on June 7, 2012, I served true and correct copies of the foregoing AFFIDAVIT OF DAVID A. JARVIS as follows:

via FedEx mail:

Clerk of the District Court (original + 23 copies)
Snake River Basin Adjudication
253 Third Avenue North
Twin Falls, ID 83303-2707
Phone: 208-736-3011

via First Class U.S. Mail, pre-paid:

C.Thomas Arkoosh
Capitol Law Group, PLLC
P.O. Box 2598
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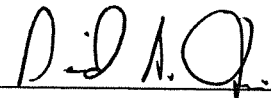
Chief, Natural Resources Division
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Jerry R. Rigby
Rigby Andrus & Rigby
P.O. Box 250
Rexburg, ID 83440-0250



~~David W. Gehlert~~

Attachment A

American Falls Subcases

01-02064
01-02064A
01-02064B
01-02064C
01-02064D
01-02064E
01-02064F
01-02064L
01-10042
01-10042A
01-10042B
01-10053A
01-10190

Palisades Subcases

01-02068
01-02068D
01-02068E
01-02068F
01-02068M
01-02068Y
01-10043
01-10043A
01-10043E
01-10191
01-10389

Exhibit 1

Type Miscellaneous

Contract No.
14-06-W-28

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Reclamation

Minidoka and Palisades Projects
Idaho

Amendatory and Supplemental Contract With
NORTH SIDE CANAL COMPANY, LIMITED
Concerning Storage Capacity in American Falls and
Palisades Reservoirs, and Related Matters

THIS CONTRACT, Made this 29th day of February 1960, pursuant to the Federal Reclamation Laws, between THE UNITED STATES OF AMERICA (hereinafter called the United States), acting through the Secretary of the Interior, and NORTH SIDE CANAL COMPANY, LIMITED (hereinafter called the Company), a corporation organized and existing under the laws of the State of Idaho and having its principal place of business at Jerome, Idaho,

WITNESSETH, That:

WHEREAS, the United States and the Company, under the Federal Reclamation Laws, have heretofore contracted with respect to the future operation of Jackson Lake, Island Park, American Falls, Lake Walcott, and Palisades reservoirs, being contract No. 14-06-W-28, dated December 12, 1952 (hereinafter called the Contract), which the parties desire to amend and supplement;

NOW, THEREFORE, in consideration of the mutual and dependent covenants hereinafter stated, it is hereby agreed between the parties as follows:

(e) In paragraph (b) of article 11, the words and figures "seven and ninety-four hundredths percent (7.94%)" and "seven and thirty-five hundredths percent (7.35%) (124,980" are hereby amended to read "six and nine thousand six hundred thirty-five ten thousandths percent (6.9635%)" and "six and three thousand seven hundred fifty-three ten thousandths percent (6.3753%) (108,380" respectively.

II

In the group of articles headed "Provisions Relating to Storage Capacity in Palisades Reservoir", effective as of January 1, 1959:

(a) In article 13, (i) the words and figures "eight and three thousand three hundred thirty-three ten thousandths percent (8.3333%)" appearing in the first sentence are hereby amended to read "nine and seven thousand one hundred sixty-seven ten thousandths percent (9.7167%)", and (ii), the figure "100,000 acre-feet" appearing in the third sentence is hereby amended to read "116,600 acre-feet".

(b) In article 14, paragraph (a), (i) the words and figures "nine hundred thousand dollars (\$900,000.00)" appearing in the first sentence, are hereby amended to read "one million forty-nine thousand four hundred dollars (\$1,049,400.00)"; and (ii) the words and figures "seven hundred seventy-five thousand dollars (\$775,000.00)" appearing in the last sentence, are hereby amended to read "nine hundred three thousand six hundred fifty dollars (\$903,650.00)".

(c) In article 15, paragraph (a), the words and figures "eight and thirty-three hundredths percent (8.33%)" appearing in the first sentence, are hereby amended to read "nine and seven thousand one hundred sixty-seven ten thousandths percent (9.7167%)".

hundredths percent (19.75%) appearing in both the first and second sentence, are hereby amended to read "eight and eight thousand one hundred six ten thousandths percent (8.8106%); (iii) the words "and Gravity divisions" are hereby amended to read "Division"; (iv) the words and figures "nineteen and sixteen hundredths percent (19.16%)" are hereby amended to "eight and two thousand two hundred twenty-four ten thousandths percent (8.2224%); (v) the words and figures "seventy-six and seven tenths percent (76.7%)" appearing in the second sentence, are hereby amended to read "thirty-four and two thousand one hundred twelve ten thousandths percent (34.2112%); (vi) the words and figures "fifty-nine hundredths percent (0.59%)" are amended to "five thousand eight hundred eight-two ten thousandths percent (0.5882%); and (vii) the figure "335,810 acre-feet" is hereby amended to "149,780 acre-feet".

(c) In paragraph (a) of article 23 the words and figures "fifty-nine hundredths percent (0.59%)" are amended to read "two and two thousand eight hundred forty-one ten thousandths percent (2.2841%)".

(d) In paragraph (b) of article 23, (1) the figure "335,810" is hereby amended to read "149,780", and (ii) the words "and the Minidoka Irrigation District of their" are amended to read "of its".

IV

Except as articles or subarticles of the Contract are specifically amended or supplemented by this contract or affected by applicable law, they shall be treated as being in full force and effect.

STATE OF IDAHO

County of Twin Falls

} ss.

On this 29th day of February 1960, before me personally appeared J. H. Silbaugh and Thelma Thompson, to me known to be, respectively, the President and the Secretary of North Side Canal Company, Limited, the corporation that executed the within and foregoing instrument. They acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned; and on oath stated that they were authorized to execute said instrument and that the seal affixed is the seal of said corporation.

IN WITNESS WHEREOF, I set my hand and affix my official seal the day and year first above written.

(SEAL)

/s/ Flora May Brown
Notary Public in and for the
State of Idaho
Residing at Twin Falls

My commission expires Feb. 1, 1961

Exhibit 2

**THE 1990 FORT HALL INDIAN
WATER RIGHTS AGREEMENT**

* * *

By and Between

**THE SHOSHONE-BANNOCK TRIBES
OF THE FORT HALL INDIAN RESERVATION,
THE STATE OF IDAHO, THE UNITED STATES,
and CERTAIN IDAHO WATER USERS**

charged against the Tribal groundwater right in Article 7.2.1.

- .c The Tribes and United States agree to exercise this water right in a manner that ensures persons diverting ground water from the Bannock Creek drainage basin prior to January 1, 1990, whose rights are decreed in the SRBA will continue to receive their full legal entitlement under state law. The parties will specifically enumerate the rights protected by this provision once the SRBA decree for this basin becomes final. These state created water rights are estimated to divert not more than 2,400 AFY of water from the ground water of the Bannock Creek drainage basin. In the event this estimate of the amount of existing diversions under state water rights is changed as a result of the decree in the SRBA, the parties shall negotiate an equitable adjustment to the Tribal Water Rights to account for this change.

- 7.3 Federal contract storage water rights held in trust by the United States for the benefit of the Tribes:

- .1 The United States holds in trust federal contract storage rights for water that accrues to two and eight thousand and fifty nine ten thousandths percent (2.8059%) of the storage space in American Falls Reservoir and six and nine thousand nine hundred and seventeen ten thousandths per cent (6.9917%) of the storage space in Palisades Reservoir for the benefit of the Tribes and 187.7 acres of other lands served by the Michaud Division of the Fort Hall Indian Irrigation Project. These federal contract storage rights are presently equivalent to the following storage space in American Falls and Palisades Reservoirs:

American Falls Reservoir	46,931 AF
Palisades Reservoir	83,900 AF

- .2 The federal contract storage rights described in Article 7.3.1 may be used to irrigate up to 33,938 present and future acres of Indian lands with an annual volume of consumptive use not to exceed 79,542 AFY. Indian lands in excess of 33,938 acres may be irrigated with the water that accrues to the federal contract storage rights described in Article 7.3.1 if no other water rights are injured thereby.
- .3 The Tribes and the Secretary agree to continue to exchange storage water from the federal contract storage rights described in Article 7.3.1 for water diverted from the Portneuf River as provided for in

Article 8 of the Michaud Contract. The Tribes may identify the reservoir storage space to be used to provide storage water for this exchange. In the event no specific storage is identified, water from the Palisades storage space shall be the first water to be used for this exchange.

- .4 The Tribes shall have the right to create a Shoshone-Bannock Water Bank pursuant to Idaho Code §§ 42-1761 through 42-1765 in order to rent as prescribed in Article 7 for any beneficial use outside the Reservation all or any part of the water accruing to the federal contract storage rights set forth in Article 7.3.1 that is not used on Indian lands as provided in Article 7.3.2 or exchanged pursuant to Article 7.3.3; provided that

- .i storage water from Palisades Reservoir is rented and delivered for use within the Snake River Basin anywhere above Milner Dam, and
- .ii storage water from the American Falls Reservoir is rented and delivered for use in the Snake River Basin anywhere within Idaho.

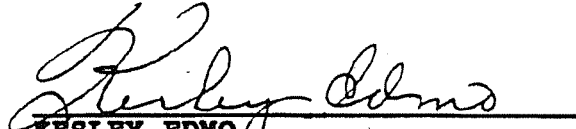
- .5 The rental of the federal contract storage water rights in Article 7.3.1 through the Shoshone-Bannock Water Bank shall not be subject to any limitation based on the following:

- .i any provision of the Michaud Contract except as set forth in Article 7.3.3;

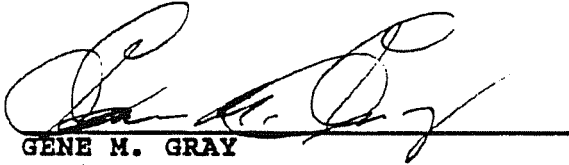
The parties have executed this Agreement on the date following their respective signatures.


CECIL ANDRUS
Governor, State of Idaho

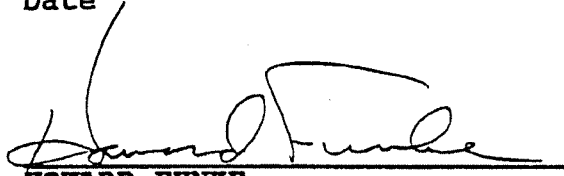
7-5-90
Date


KESLEY EDMO
Chairman, Shoshone-Bannock
Tribal Council

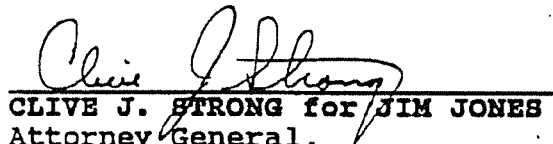
7/5/90
Date


GENE M. GRAY
Chairman,
Idaho Water Resource Board

7-5-90
Date


HOWARD FUNKE
Tribal Attorney
Shoshone-Bannock Tribes

7/5/90
Date


CLIVE J. STRONG for JIM JONES
Attorney General,
State of Idaho

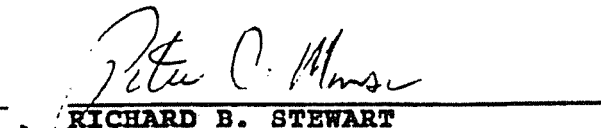
7/5/90
Date


DR. EDDIE F. BROWN
Assistant Secretary for
Indian Affairs

7-10-90
Date


PAUL BERGGREN
Chairman
Committee of Nine

7/9/90
Date


for RICHARD B. STEWART
Assistant Attorney General
Land and Natural Resources
Division
U.S. Department of Justice

7/10/90
Date