

**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. 21-2156, 21-10560
) (Island Park)
)

) Subcase No. 21-4155 (Grassy Lake)
)

) **STIPULATION TO RESOLVE**
) **WATER RIGHT ELEMENTS**
)

1. The undersigned parties (collectively, the "Parties"), by and through their counsel of record, hereby stipulate and agree to the following water right elements for Island Park (21-2156, 21-10560) and Grassy Lake (21-4155) reservoirs. The Idaho Department of Water Resources ("Department") concurs with the stipulation.

Island Park Reservoir: 21-2156 & 21-10560

	21-2156	21-10560
Name & Address	United States of America	United States of America
Source	Henry's Fork, tributary to Snake River	Henry's Fork, tributary to Snake River

Quantity	90,000 AFY "Total reservoir capacity is 135,000 acre feet when filled to elevation 6303 and measured at the upstream face of the dam."	45,000 AFY "Total reservoir capacity is 135,000 acre feet when filled to elevation 6303 and measured at the upstream face of the dam."
Priority Date	03/14/1935	06/12/1940 "The storage of water under this right shall be administered with a priority date of 03/29/1921"
Point of Diversion	T13N, R43E, S28, Lot 3 Within Fremont County	T13N, R43E, S28, Lot 3 Within Fremont County
Purpose & Period of Use	Irrigation Storage 01/01-12/31 90,000.00 AFY Irrigation from Storage 04/01-10/31 90,000.00 AFY	Irrigation Storage 01/01-12/31 45,000.00 AFY Irrigation from Storage 04/01-10/31 45,000.00 AFY
Place of Use	"The boundary encompassing the place of use for this water right is described by digital boundary" "Place of use does not include federal public lands unless authorized in writing by the United States Bureau of Reclamation." "Place of use for irrigation from storage is within the digital boundary of Fremont Madison Irrigation District pursuant to Section 43-323, Idaho Code."	"The boundary encompassing the place of use for this water right is described by digital boundary" "Place of use does not include federal public lands unless authorized in writing by the United States Bureau of Reclamation." "Place of use for irrigation from storage is within the digital boundary of Fremont Madison Irrigation District pursuant to Section 43-323, Idaho Code."

Grassy Lake Reservoir: 21-4155

Name & Address	United States of America
Source	Cascade Creek, tributary to Fall River Grassy Springs, tributary to Fall River
Quantity	15,204.00 AFY
Priority Date	02/13/1936 "The priority date for this water right represents the priority associated with the storage water put to beneficial use under this right after storage released from Grassy Lake enters the State of Idaho."
Point of Diversion	T09N, R46E, S17, Lot 3 Within Fremont County "The point of diversion shown above is where Fall River enters the State of Idaho, recognizing, however, the storage water is physically stored in and released from Grassy Lake which is located within the State of Wyoming."
Purpose & Period of Use	Irrigation from Storage 04/01-10/31 15,204.00 AFY
Place of Use	"The boundary encompassing the place of use for this water right is described by digital boundary" "Place of use does not include federal public lands unless authorized in writing by the United States Bureau of Reclamation." "Place of use for irrigation from storage is within the digital boundary of Fremont Madison Irrigation District pursuant to Section 43-323, Idaho Code."

2. As shown in the above tables, the Parties agree and the Department concurs that this stipulation only resolves the following water right elements for Island Park (21-2156, 21-10560) and Grassy Lake (21-4155) reservoirs: Name & Address; Source; Quantity; Priority Date; Point of Diversion; Purpose & Period of Use; and, Place of Use.

3. The Parties agree and the Department concurs that this stipulation, consistent with the Idaho Supreme Court's decision in *U.S. v. Pioneer Irr. Dist.*, 144 Idaho 106, 157 P.3d 600 (2007), resolves the Parties' objections concerning ownership of Island Park (21-2156, 21-10560) and Grassy Lake (21-4155) reservoirs. The Parties agree and the Department concurs that following remark shall be included in "Other Provisions Necessary for Definition or Administration of this Water Right" for Island Park (21-2156, 21-10560) and Grassy Lake (21-4155) reservoirs:

The name of the United States of America acting through the Bureau of Reclamation appears in the Name and Address sections of this partial decree. However, as a matter of Idaho Constitutional and Statutory Law, title to the use of the water is held by the consumers or users of the water. The irrigation organizations act on behalf of the consumers or users to administer the use of the water for the landowners 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. The interest of the consumers or users of the water is appurtenant to the lands within the boundaries of or served by such irrigation organizations, and that interest is derived from law and is not based exclusively on the contracts between the Bureau of Reclamation and the irrigation organizations.

4. The Parties agree and the Department concurs that this stipulation does not resolve any other remarks contained in "Other Provisions Necessary for Definition or Administration of this Water Right."

5. The Parties agree and the Department concurs that this Stipulation has been reached in the process of good faith negotiations for the purpose of resolving legal disputes,

including pending litigation, without any determination on the merits. The Parties agree, and the Department concurs, that nothing herein or resulting herefrom shall constitute an admission against interest or be used in any proceeding as legal support or precedent, except as to effectuate this specific stipulation. Each party stands by its claims, objections, and/or responses and intends merely to avoid litigation and settle this matter.

6. The Parties represent and acknowledge that each of the undersigned is authorized to execute this Stipulation on behalf of the party they represent.

FREMONT-MADISON ET AL.
RIGBY ANDRUS & RIGBY CHTD.

BARKER ROSHOLT & SIMPSON LLP



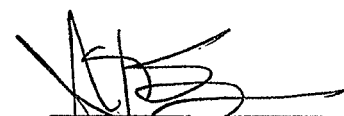
Jerry R. Rigby Date 9-10-12
Attorneys for Fremont-Madison Irrigation
District, Idaho Irrigation District, and
Blackfoot Irrigation Company



Travis L. Thompson • Roger Ling Date 9/12/12
Attorneys for A&B Irrigation District,
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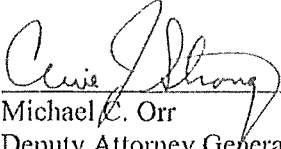
Craig D. Hobdey Date 9/11/12
Attorneys for American Falls Reservoir
District #2



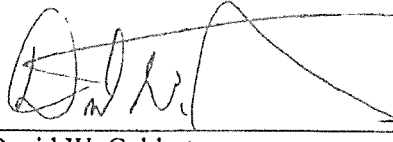
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Attorneys for Minidoka Irrigation District

IDAHO ATTORNEY GENERAL'S OFFICE

U.S. BUREAU OF RECLAMATION

 9/10/2012

Michael C. Orr Date
Deputy Attorney General

 9/10/2012

David W. Gehlert Date
Attorney for U.S. Bureau of Reclamation

IDAHO DEPT. OF WATER RESOURCES

 9-11-12

Carter Fritschle Date
Manager, Adjudication Section

 9/11/12

Chris M. Bromley Date
Deputy Attorney General, IDWR

CERTIFICATE OF SERVICE

I certify that on September 11, 2012, I served true and correct copies of the foregoing STIPULATION as follows:

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

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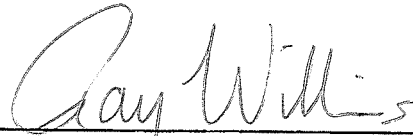
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