

**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. 63-301B
	)	
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.

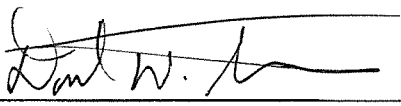
The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT:

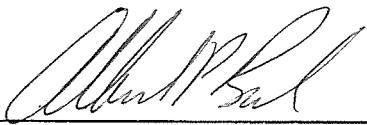
United States on behalf of
Bureau of Reclamation

OBJECTOR/RESPONDENT:

Boise Project Board of Control



David W. Gehlert 8/5/13 Date
Attorney, U.S. Department of Justice
Environment and Natural Resources Division



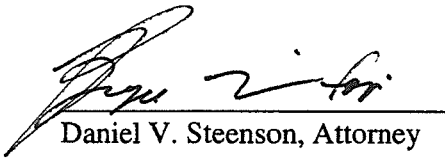
Albert P. Barker, Attorney 8/7/13 Date

OBJECTOR:

Nampa & Meridian Irrigation District

OBJECTOR/RESPONDENT:

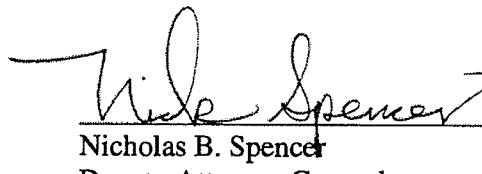
Ray Obendorf

 8/14/13
Daniel V. Steenson, Attorney Date

Dana L. Hofstetter, Attorney Date

IDWR Concurrence:

 8/2/13
IDWR Agent Date

 8-2-13
Nicholas B. Spencer Date
Deputy Attorney General

CERTIFICATE OF MAILING

I certify that on November 7, 2013, 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
PO BOX 2707
TWIN FALLS, IDAHO 83303-2707

2. Copies to:

UNITED STATES OF AMERICA
USDI BUREAU OF RECLAMATION
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NAT'L RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

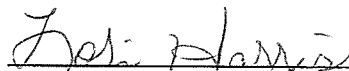
BOISE PROJECT BOARD OF CONTROL
Represented by:
ALBERT P. BARKER
1010 W. JEFFERSON, STE. 102
PO BOX 2139
BOISE, ID 83701-2139

NAMPA & MERIDIAN IRRIGATION DIST
Represented by:
DANIEL V. STEENSON
SAWTOOTH LAW OFFICES
PO BOX 7985
BOISE, ID 83707

UNITED STATE OF AMERICA
REGIONAL DIRECTOR PN REGION
BUREAU OF RECLAMATION PN-3100
1150 N CURTIS RD STE 100
BOISE, ID 83706-1234

RAY OBENDORF
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098



Signature of person or attorney mailing the form

02/22/2013

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

RIGHT NUMBER: 63-301B

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

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 4.490 CFS

The irrigation 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: 12/14/1903

Pursuant to a call in times of scarcity, this right is junior to water right nos. 63-225, 63-253, 63-285, 63-292, 63-293 and 63-382B and any future splits of these rights.

POINT OF
DIVERSION:

T03N R02E S9 SWNE Lot 7 Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	4.490 CFS
Diversion for irrigation purposes under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoirs dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right for irrigation purposes prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.		

PLACE OF USE:

13135 ACRES TOTAL

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

Water diverted into the Settlers Irrigation District canal under this right in combination with Right Nos. 63-251B, 63-302B, 63-373B and 63-2388B is limited to the irrigation of 546.59 acres of project lands located within Settlers Irrigation District.

Place of Use is within the Settlers Irrigation District.

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

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.

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

This right is renumbered from former right 63-301.

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

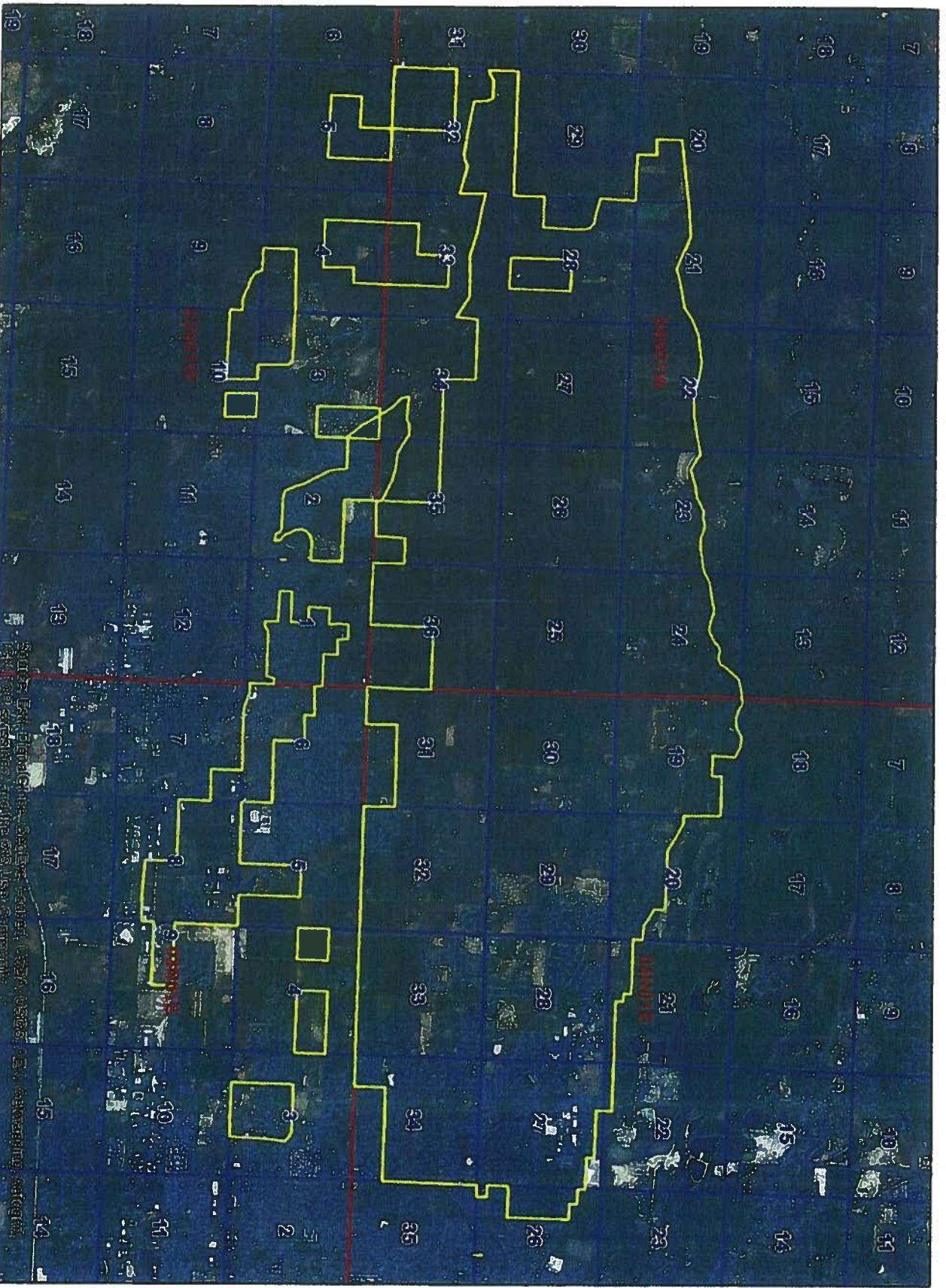
[Handwritten signature]
NBS

DL

APB

SBA

An aerial photograph of a coastal area, possibly a beach or dune region, overlaid with a yellow boundary line and a grid of numbered cells. The grid consists of 36 numbered cells (1-36) arranged in a roughly rectangular pattern. The cells are numbered as follows: 1-10 in the top row, 11-20 in the second row, 21-30 in the third row, and 31-36 in the bottom row. The boundary line follows the perimeter of the grid, with some irregularities. The background is a dark, textured aerial view of the ground. A red line runs vertically through the center of the grid, and a red line runs horizontally across the middle of the grid. The text 'DAVID' is visible in the bottom right corner of the grid area.



HOFSTETTER LAW OFFICE

608 West Franklin Street

Boise, Idaho 83702

Dana@IdahoWaterLaw.com

Dana L. Hofstetter
Attorney at Law

Telephone: (208) 424-7800

Facsimile: (208) 424-8774

October 30, 2013

RECEIVED

OCT 31 2013

DEPARTMENT OF
WATER RESOURCES

Nick Spencer
Idaho Department of Water Resources
Legal Department
P.O. Box 83720
Boise, Idaho 83720-0098

Re: SRBA Subcase Nos. 63-251, *et al.*

Dear Nick:

I enclose twenty (20) original signed Standard Form 5's for the above-referenced subcases that I previously received from Bryce Farris. As we discussed, I will withdraw Ray Obendorf's Objections in these subcases so that his signature on these Standard Form 5's will not be necessary. I understand that you will arrange to have the Standard Form 5's filed with the SRBA Court.

Please let me know if you need anything further in connection with this matter.
Thank you for your assistance.

Sincerely,

HOFSTETTER LAW OFFICE, LLC



Dana L. Hofstetter

Enclosures
4026.5/10629

Mailing Address

P.O. Box 7985
Boise, Idaho 83707

Boise Office

Golden Eagle Building
1101 W. River St., Ste. 110
Boise, Idaho 83702
Tel. (208) 629-7447
Fax (208) 629-7559

Challis Office

1301 E. Main Ave.
P.O. Box 36
Challis, Idaho 83226
Tel. (208) 879-4488
Fax (208) 879-4248

Twin Falls Office

161 Fifth Avenue South
Twin Falls, Idaho 83301



SAWTOOTH LAW
OFFICES, PLLC

August 20, 2013

David P. Claiborne
david@sawtoothlaw.com

S. Bryce Farris
bryce@sawtoothlaw.com

Evan T. Roth
evan@sawtoothlaw.com

Daniel V. Steenson
dan@sawtoothlaw.com

James R. Bennetts, of counsel
jim@sawtoothlaw.com

Katie Kelly, legal assistant
katie@sawtoothlaw.com

Melodie Baker, legal assistant
mel@sawtoothlaw.com

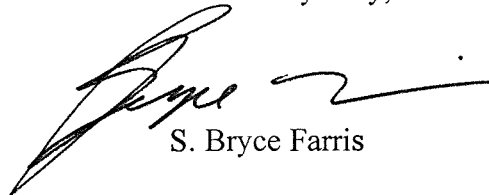
Dana L. Hofstetter
Attorney at Law
608 West Franklin Street
Boise, ID 83702

Re: *SRBA Subcase Nos. 63-251, et al*

Dear Dana:

Enclosed for your signature are twenty (20) SF-5 Stipulated Agreements. After signing, please forward them to IDWR.

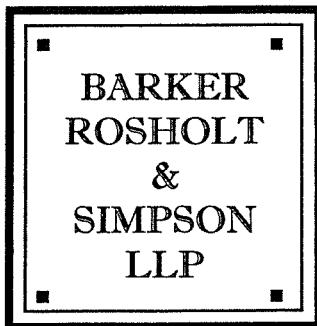
Yours very truly,



S. Bryce Farris

SBF/krk
Enclosures
cc: NMID w/ encls.

ALBERT P. BARKER
JOHN A. ROSHOLT
JOHN K. SIMPSON
TRAVIS L. THOMPSON
SHELLEY M. DAVIS
PAUL L. ARRINGTON
SCOTT A. MAGNUSON
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1010 W. Jefferson, Suite 102
Post Office Box 2139
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(208) 336-0700 telephone
(208) 344-6034 facsimile
brs@idahowaters.com

195 River Vista Place, Suite 204
Twin Falls, ID 83301-3029
(208) 733-0700 telephone
(208) 735-2444 facsimile
jar@idahowaters.com

Albert P. Barker
apb@idahowaters.com

August 7, 2013

Daniel V. Steenson
Sawtooth Law
1101 W. River Street, Suite 110
P. O. Box 7985
Boise, ID 83707

RECEIVED
AUG 09 2013
SAWTOOTH LAW OFFICES

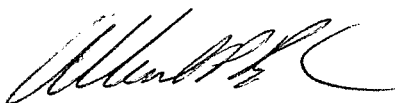
Re: SRBA Subcase Nos. 63-251, et al.

Dear Dan,

Enclosed for your signature are twenty (20) SF-5 Stipulated Agreements. After signing, please forward them to Dana Hofstetter for her signature and return to the IDWR.

Very truly yours,

BARKER ROSHOLT & SIMPSON LLP



Albert P. Barker

APB/se
Enclosures

COPY



U.S. Department of Justice

Environment and Natural Resources Division

DWG:DAJ

90-6-2-63c

David W. Gehlert
Environment and Natural Resources Division
U.S. Department of Justice
999 18th Street
South Terrace – Suite 370
Denver, CO 80202

Telephone: 303-844-1386
Fax: 303-844-1350
E-mail: david.gehlert@usdoj.gov

August 5, 2013

via FedEx 2nd Day Mail

Albert P. Barker
Barker Rosholt & Simpson
1010 W. Jefferson St., Suite 102
Boise, ID 83701

Re: SRBA Subcase Nos. 63-00251, *et al.*

Dear Mr. Barker:

Attached please find twenty (20) executed SF-5 Stipulated Agreements for the above listed subcases which Dave Gehlert is forwarding to you for your review and signatures, per the directive from Kimi White at IDWR.

Sincerely,

Attachments

COPY

RECEIVED AUG 07 2013