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DEPARTMENT OF
WATER RESOURCES

LAWRENCE G. WASDEN
ATTORNEY GENERAL

CLIVE J. STRONG (ISB # 2207)
Deputy Attorney General
Chief, Natural Resources Division

MICHAEL C. ORR (ISB # 6720)
Deputy Attorney General
Natural Resources Division

700 West State Street – 2nd Floor
P.O. Box 44449
Boise, Idaho 83711-4449
Telephone: (208) 334-2400

Attorneys for the State of Idaho

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. 63-33732 & 63-33737
) (Arrowrock); 63-33733 & 63-33738 (Anderson
) Ranch); 01-10622 & 01-10617 (Lake Walcott);
) 01-10620, 01-10616 & 01-10618 (American
) Falls); 01-10621 & 10615 (Palisades); and
) 01-10623 & 01-10614 (Jackson Lake)
)
) **REPLY IN SUPPORT OF STATE OF**
) **IDAHO'S MOTION FOR SUMMARY**
) **JUDGMENT**
)

INTRODUCTION

The Boise Project Board of Control ("Board of Control") and the "Surface Water Coalition" ("Coalition") oppose the *State Of Idaho's Motion For Summary Judgment*

(Oct. 10, 2014) (“*Motion*”), arguing that *United States v. Pioneer Irrigation District*, 144 Idaho 106, 157 P.3d 600 (2007) (“*Pioneer*”), does not apply to storage water rights for federal reservoirs initiated under the “constitutional method” of appropriation, or alternatively requires that they be decreed in the names of irrigation organizations. The *Pioneer* analysis, however, was based on how an appropriation is perfected rather than how it is initiated, and applies with just as much force to the claims at issue here.

The Coalition argues that *Pioneer* applies only if its claims are “identical” to those of the United States and makes much of a few minor differences between the claims. *Pioneer* is not limited to “identical” claims, however, and the undisputed record confirms the claims are the same in all material respects. The Coalition’s attempt to analogize its claims to those in *Joyce Livestock Co. v. United States*, 144 Idaho 1, 156 P.3d 502 (2007), fails because *Joyce* did not involve storage water rights in a reservoir operated by the United States, but rather water rights for in-stream stockwatering that had been established without any federal assistance.

The Board of Control and the Coalition also attempt to raise a number of factual issues that either pertain to the merits of their claims, or are entirely outside the scope of these subcases. These arguments are not material to the State’s *Motion*, which raises a threshold issue of law limited to the legal effect of the *Pioneer* decision.

ARGUMENT

I. *Pioneer* Applies To “Constitutional Method” Claims For Irrigation Storage Water Rights At Federal Reservoirs.

The Board of Control and the Coalition argue that *Pioneer* does not apply to their claims because they are based upon the “constitutional method” of appropriation. *Boise Project Board Of Control’s Memorandum In Opposition To State Of Idaho’s Motion For*

Summary Judgment (Dec. 3, 2014) (“*BOC Brief*”), at 15; *Surface Water Coalition’s Memorandum In Opposition To The State Of Idaho’s Motion For Summary Judgment/Notice of Joinder*¹ (Dec. 3, 2014) (“*SWC Brief*”) at 6. They alternatively argue that *Pioneer* affirmatively supports their claims. See *BOC Brief* at 15 (“*Pioneer Supports The Boise Project’s Beneficial Use Claims As A Matter Of Law*”) (boldface omitted).

These arguments are unavailing because *Pioneer* hinged upon how storage water rights for federal reservoirs are perfected—by actual beneficial use—not how they are initiated. See *Pioneer*, 144 Idaho at 110, 157 P.3d at 604 (“Under either the constitutional or statutory method of appropriation, the appropriator must apply the water to a beneficial use in order to have a valid water right in Idaho”); *id.* at 113, 157 P.3d at 607 (“In Idaho the appropriator must apply the water to a beneficial use in order to have a valid water right under both the constitutional method of appropriation and the statutory method of appropriation.”). The method of initiating an appropriation is irrelevant under *Pioneer*. The argument that *Pioneer* applies only to water rights initiated under the “statutory method” finds no support in the language or logic of the *Pioneer* decision.

Even assuming, *arguendo*, that the method of initiating the appropriation is relevant to a *Pioneer* analysis, the arguments of the Board of Control and the Coalition would be unavailing because under either method the appropriation is initiated by the United States, not by irrigation organizations such as the Board of Control and the Coalition. The first step in initiating a storage water right for a federal reservoir under the “constitutional method” is to divert the water to storage in a federal reservoir—beneficial use cannot take place until after the storage is released from the reservoir. It is undisputed that the United States has legal authority over the federal reservoirs and

¹ The Coalition stated it “joins in and adopts” the Board of Control’s arguments. *SWC Brief* at 1.

operational control of them. *See id.* at 110, 157 P.3d at 604 (“the United States retains control of the operation of the project and distribution of its benefits to ensure they are properly used”).

In short, the United States, irrigation organizations, such as the Board of Control and the Coalition, and the irrigators play the same roles in establishing the storage water right under both methods of appropriation. The United States stores water in federal reservoirs and subsequently releases it for use; irrigation organizations acting on behalf of the irrigators re-divert the storage out of the river and deliver it to irrigators; and irrigators perfect the appropriation by actually using the water to irrigate their crops. The only difference is that under the “constitutional method” the United States initiates the appropriation by actually storing water rather than by filing a permit application. This difference does not change or enlarge the roles of the Board of Control and the Coalition in establishing the storage water rights.

Thus, as with a storage water right established through licensing, legal title to a storage water right established under the “constitutional method” is held by United States, and “title to the use of the water is held by the consumers or users of the water.” *Id.* at 115, 157 P.3d at 609. Irrigation organizations such as the Board of Control and the Coalition are distribution intermediaries that “act on behalf of the consumers or users to administer the use of the water for landowners,” *id.*, but hold no ownership interest.² *Id.* at 115, 157 P.3d at 609. The allegedly “important” and “critical” distinction cited by the

² As discussed in the *Motion*, the Idaho Supreme Court in *Pioneer* rejected the irrigation organizations’ argument that beneficial or equitable title was “held in trust” by the irrigation organizations. *Id.* at 109, 115, 157 P.3d at 603, 609; *Motion* at 10-11.

Board of Control and the Coalition, *BOC Brief* at 15, *SWC Brief* at 6, makes no difference under *Pioneer*.³

II. The Coalition And The United States Claim The Same Storage Water Rights.

The Coalition does not dispute that it has claimed storage water rights with the same points of diversion (federal dams) and places of storage (federal reservoirs) as the storage water rights claimed by the United States, for irrigation purposes and places of irrigation use that were also claimed by the United States. *Motion* at 3-4. The Coalition does not dispute that its claims assert the same priority dates as the United States' claims. *Id.* at 5.⁴ The Coalition does not dispute both parties claimed these priorities for the same reason: they are the years with the "highest inflow"⁵ or the "largest inflow"⁶ to the reservoirs. *Id.* The Coalition does not dispute that it claims assert the same "Total Quantity Appropriated" at each reservoir as the United States' claims.⁷ *Id.* The Coalition

³ The argument that *Pioneer* applies only to water rights initiated under the "statutory method" is novel and contrary to the SRBA record. The storage water right for the United States' Hubbard Reservoir, 63-32579, was initiated under the "constitutional method" and claimed as such in the SRBA. The storage water right was nonetheless decreed as prescribed in *Pioneer*—with the United States identified as legal title holder and with a *Pioneer* remark. This was consistent with *Pioneer*'s holding that the same beneficial use requirement applies regardless of whether the appropriation is initiated under the "statutory method" or the "constitutional method." *Id.* at 110, 113, 157 P.3d at 604, 607. Attached hereto are copies of the claim filed, and the partial decree issued, in Subcase No. 63-32579. The Court may take judicial notice of these documents pursuant to I.R.E. 201.

⁴ The Coalition and the United States have both claimed priority dates of September 30, 1956 at Jackson Lake (claim nos. 01-10614 and 01-10623); September 30, 1965 at Palisades (claim nos. 01-10615 and 01-10621); September 30, 1952 at American Falls and Lake Walcott (claim nos. 01-10616, 01-10617, 01-10620 and 01-10622).

⁵ *Memorandum In Support Of Motion To File Late Notices Of Claims*, Subcase Nos. 01-10614, 01-10615, 01-10617, 01-10618, and 01-10619 (Jan. 31, 2013), at 4-5.

⁶ *The United States Memorandum In Support of SF4 Motions To File Late Claims*, Subcase Nos. 01-10620, 01-10621, 01-10622, 01-10632, 21-13161, 37-22806, 63-33732, 63-33733, 63-33734, 65-23531, and 65-23532 (Jan. 31, 2013), at 4.

⁷ The Coalition and the United States have both claimed a "Total Quantity Appropriated" of 1,483,853 acre-feet per year at Jackson Lake (claim nos. 01-10614 and 01-10623); 5,935,975 acre-feet per year at Palisades (claim nos. 01-10615 and 01-10621); 6,986,887 acre-feet per year at American Falls (claim nos. 01-10616 and 01-10620); and 7,384,511 acre-feet per year at Lake Walcott (claim nos. 01-10617 and 01-10622).

does not dispute that both parties claimed these quantities for the same reason: they represent the inflow to each reservoir in the “highest”⁸ or “largest” inflow year.⁹ *Id.*

The Coalition does not dispute that it and the United States both assert their claims are for supplemental storage water rights to be administered in conjunction with the licensed and decreed storage water rights, under combined use remarks. *Id.* at 5-6. The Coalition does not dispute that it and the United States both claimed that any partial decrees should include the *Pioneer* remark, although the Coalition proposed a slightly modified remark stating the United States holds “nominal legal title” to the storage water rights.¹⁰

The Coalition nonetheless argues that *Pioneer* does not apply because its claims and those of the United States are not “identical.” *SWC Brief* at 2-4, 5. *Pioneer* did not involve “identical” claims, however. Rather, “[t]he irrigation entities filed separate claims to the same water rights consistent with their respective uses.” *Pioneer*, 144 Idaho at 108, 157 P.3d at 602 (emphasis added). As discussed above, the claims of the United States and irrigation organizations in these subcases are the same in all material respects (which are conveniently omitted from the table on page 3 of the Coalition’s brief). The few minor differences between the claims simply reflect the “respective uses” and operations of the Coalition and the United States. *Id.*

The differences identified by the Coalition are that it has not claimed “power” as a use, and with respect to irrigation has claimed slightly less “irrigation from storage,” and

⁸ *Memorandum In Support Of Motion To File Late Notices Of Claims, Subcase Nos. 01-10614, 01-10615, 01-10617, 01-10618, and 01-10619* (Jan. 31, 2013), at 4-5.

⁹ *The United States Memorandum In Support of SF4 Motions To File Late Claims, Subcase Nos. 01-10620, 01-10621, 01-10622, 01-10632, 21-13161, 37-22806, 63-33732, 63-33733, 63-33734, 65-23531, and 65-23532* (Jan. 31, 2013), at 4.

¹⁰ See claims nos. 01-10614, 01-10615, 01-10617, 01-10618, and 01-10619, 01-10620, 01-10621, 01-10622, 01-10632, 21-13161, 37-22806, 63-33732, 63-33733, 63-33734, 65-23531, and 65-23532.

places of use in only 9 of the 14 counties identified by the United States. *SWC Brief* at 3. These differences arise from one fact: the United States operates the dams and reservoirs, while the Coalition entities operate their own irrigation systems. As a result the United States can claim “power” as a use but the Coalition cannot. For similar reasons, the United States can claim more counties as “places of use” than the Coalition, and a greater amount of “irrigation from storage”: the United States operates the reservoirs for the benefit of all irrigation spaceholders, not just the Coalition entities. *Motion* at 4 n. 9.

In short, the undisputed record confirms that the Coalition and the United States filed “separate claims to the same water rights,” with only minor differences that are “consistent with their respective uses.” *Pioneer*, 144 Idaho at 108, 157 P.3d at 602. The Coalition’s argument that its claims are “not the same” as the United States’ applies an “identical” standard *Pioneer* did not recognize and is contrary to the undisputed record.

The Coalition’s argument also fails for an alternative and indeed remarkable reason: the United States and the Coalition have effectively claimed all of the water in the Snake River basin above Lake Walcott. It is undisputed that at each reservoir, the “Total Quantity Appropriated” in the claims of both the Coalition and the United States is the total inflow during the highest runoff year prior to 1971. The two sets of claims both claim all of the water for each of the federal reservoirs, and thus are competing claims for “the same project water.” *Order Disallowing With Prejudice All Claims Filed By Irrigation Entities Under Consolidated Subcase No. 91-63, Subcase Nos. 63-303A* [etc.] (Jun. 29, 2007), at 1. It follows that the Coalition’s claims—including 01-10618, the ‘extra’ American Falls claim the Coalition argues is “unique” and has no competing claim, *SWC Brief* at 4—must be decreed disallowed because they claim storage water

rights to the same water that would be encumbered by the United States' claimed storage water rights. *See United States' Response In Support Of State Of Idaho's Motion For Summary Judgment* (Dec. 3, 2014), at 1 ("the irrigation organizations claim 'storage water rights at the same reservoirs for the same water, for use in the same place by the same irrigators' as the United State does.") (citation omitted).

III. The United States' Operation Of The Reservoirs Distinguishes *Joyce*.

The Coalition cites the Idaho Supreme Court's decision in *Joyce Livestock Co. v. United States*, 144 Idaho 1, 156 P.3d 502 (2007) ("*Joyce*"), and argues "[b]y analogy, a private entity or individual can also appropriate a water right under a beneficial use or constitutional theory at a federal facility (i.e. federal reservoir)." *SWC Brief* at 6. The analogy is not well taken. *Joyce* involved non-diversionary water rights for stockwatering that had been established without any assistance from the United States. The United States nonetheless asserted ownership of the water rights because the appropriation took place on federal land the claimant was using under a federal grazing permit. *Joyce*, 144 Idaho at 4, 156 P.3d at 505.

While in *Joyce* it was undisputed the United States played no role in initiating or perfecting the appropriation that is not the case in these proceedings. To the contrary, it is undisputed that the United States owns and operates the federal reservoirs, and plays an important role in initiating and/or perfecting any irrigation storage water rights for the federal reservoirs: the United States stores the water and releases it for use by the Coalition's irrigators. It is not possible to establish storage water rights for federal reservoirs without the assistance of the United States. *Joyce* simply has no application to the Coalition's claims in these proceedings.

IV. The State's Motion Raises A Threshold Issue Of Law That Does Not Implicate Water Accounting, The Operational History Of The Reservoir Systems, Or The Claims Of The United States.

The balance of the arguments of the Board of Control and the Coalition are based on assertions characterized as raising important factual disputes, but which have nothing to do with the threshold legal issue question presented by the State's *Motion*. The sundry factual "issues" raised by the Board of Control and the Coalition relate either to the merits of their claims, or to issues entirely outside the scope of these subcases. Such matters are not material to the State's *Motion*.¹¹

The Board of Control's speculation regarding the State's positions on the validity of the United States' claims, *BOC Brief* at 3, 17-19, also is not material to the State's *Motion*. The *Motion* seeks disallowance of only the claims of the Board of Control and the Coalition; those claims stand or fall on their own, without regard to the ultimate validity of the United States' claims.¹² Speculation regarding positions the State may or may not take on the merits of the United States' claims or questions of preclusion has no

¹¹ For instance, the Board of Control's brief includes its now-familiar discussion of the "History of the Development of the Boise Project" and "Historic Treatment of Reservoir Fill After Flood Control in the Boise River Basin," *BOC Brief* at 2-12, and also discusses "Refill Proceedings Prior to the Filing of the Late Claims." *Id.* at 12-14. These sections seek to raise, among other things, claims of historic water right administration, historic reservoir operations, how the Department is claimed to account for water distributions, etc. The Board of Control also attacks various positions it asserts the State has taken on these and other matters, such as "refill." *See, e.g., BOC Brief* at 2, 3, 9, 12, 15, 18. For its part, the Coalition argues there are questions of material fact in Water District 1 because this proceeding raises "the issue of when a storage water right is filled." *SWC Brief* at 4. These assertions and arguments do not raise any genuine issues of material fact because they address the merits of the claims, or seek to inject issues that are outside the scope of these subcases. For instance, the objections of the Board of Control and the Coalition to the existing accounting systems in Water District 63 and Water District 1 are pending in proceedings before the Department, consistent with decisions of this Court and the Idaho Supreme Court. *See* <http://www.idwr.idaho.gov/news/issues/WD63/>; <http://www.idwr.idaho.gov/news/issues/WD01/>.

¹² Under *Pioneer* and this Court's *Order Disallowing With Prejudice All Claims Filed By Irrigation Entities Under Consolidated Subcase No. 91-63, Subcase Nos. 63-303A* [etc.] (Jun. 29, 2007), the United States is clearly the proper party to file claims under the "constitutional method" of appropriation, for reasons previously discussed. This does not mean, however, that the United States is excused from its burden of proving that the quantity of water claimed was actually applied to the claimed beneficial use, at the claimed time, and in the claimed place. *Pioneer*, 144 Idaho at 110, 157 P.3d at 604; *City of Pocatello v. State*, 152 Idaho 830, 841, 275 P.3d 845, 856 (2012); *Head v. Merrick*, 69 Idaho 106, 109, 203 P.2d 608, 609 (1949).

relevance to the *Pioneer* analysis as it applies to the claims of the Board of Control and the Coalition.¹³

CONCLUSION

The arguments of the Board of Control and the Coalition in opposition to the State's *Motion* lack merit. The State requests that this Court decree as disallowed the claims of the Coalition and the Board of Control.

Respectfully submitted this 10th day of December 2014.

LAWRENCE G. WASDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division



MICHAEL C. ORR
Deputy Attorney General

¹³ The State expressly reserves all legal and factual arguments related to the United States' claims.

CERTIFICATE OF SERVICE

I certify that on this 10th day of December, 2014, I caused the foregoing to be filed with the Court and copies served on the following by the methods indicated:

1. Original to:

CLERK OF THE DISTRICT COURT SNAKE RIVER BASIN ADJUDICATION 253 THIRD AVENUE NORTH PO BOX 2707 TWIN FALLS, ID 83303-2707	☐ U.S. Mail, postage prepaid ☒ Hand Delivery ☐ Federal Express ☐ Facsimile: (208) 736-2121
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2. Copies to the following:

ALBERT P BARKER ROCHELLE M DAVIS BARKER ROSHOLT SIMPSON 1010 W JEFFERSON ST STE 102 PO BOX 2139 BOISE ID 83701-2139	☒ U.S. Mail, Postage Prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile ☒ E-Mail: apb@idahowaters.com smd@idahowaters.com
TRAVIS THOMPSON BARKER ROSHOLT SIMPSON 195 RIVER VISTA PL STE 204 TWIN FALLS ID 83301-3029	☒ U.S. Mail, Postage Prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile ☒ E-Mail: tlt@idahowaters.com
JOHN SIMPSON BARKER ROSHOLT SIMPSON 1010 W JEFFERSON ST STE 102 PO BOX 2139 BOISE ID 83701-2139	☒ U.S. Mail, Postage Prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile ☒ E-Mail: jks@idahowaters.com
DANIEL STEENSON SAWTOOTH LAW OFFICES PLLC 1101 W RIVER ST STE 110 PO BOX 7985 BOISE ID 83707	☒ U.S. Mail, Postage Prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile ☒ E-Mail: dan@sawtoothlaw.com
JERRY R RIGBY RIGBY ANDRUS RIGBY 25 N 2 ND E PO BOX 250 REXBURG ID 83440-0250	☒ U.S. Mail, Postage Prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile ☒ E-Mail: jrigby@rex-law.com

MICHAEL P LAWRENCE GIVENS PURSLEY 601 W BANNOCK ST PO BOX 2720 BOISE ID 83701-2720	☒ U.S. Mail, Postage Prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile ☒ E-Mail: michaellawrence@givenspursley.com
PAUL L ARRINGTON BARKER RSHOLT SIMPSON 195 RIVER VISTA PL STE 204 TWIN FALLS ID 83301-3029	☒ U.S. Mail, Postage Prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile ☒ E-Mail: pla@idahowaters.com
S BRYCE FARRIS SAWTOOTH LAW OFFICES PLLC 1101 W RIVER ST STE 110 PO BOX 7985 BOISE ID 83707	☒ U.S. Mail, Postage Prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile ☒ E-Mail: bryce@sawtoothlaw.com
SARAH A KLAHN MITRA PEMBERTON WHITE JANKOWSKI LLP KITTREDGE BUILDING 511 16 TH ST STE 500 DENVER CO 80202	☒ U.S. Mail, Postage Prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile ☒ E-Mail: sarahk@white-jankowski.com mitrap@white-jankowski.com
W KENT FLETCHER FLETCHER LAW OFFICE 1200 OVERLAND ROAD PO BOX 248 BURLEY ID 83318-0248	☒ U.S. Mail, Postage Prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile ☒ E-Mail: wkf@pmt.org
DAVID GEHLERT US DEPT OF JUSTICE 999 – 18 TH ST SOUTH TERRACE STE 370 DENVER CO 80202	☒ U.S. Mail, Postage Prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile ☒ E-Mail: david.gehlert@usdoj.gov
ROGER LING PO BOX 623 RUPERT ID 83350-0623	☒ U.S. Mail, Postage Prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile ☒ E-Mail: rdl@idlawfirm.com

US DEPT OF JUSTICE ENVIRONMENT & NAT'L RESOURCES 550 W FORT ST MSC 033 BOISE ID 83724	☒ U.S. Mail, Postage Prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile ☐ E-Mail:
US BUREAU OF RECLAMATION REGIONAL DIRECTOR, PN REGION 1150 N CURTIS RD STE 100 BOISE ID 83706-1234	☒ U.S. Mail, Postage Prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile ☐ E-Mail:
DIRECTOR OF IDWR PO BOX 83720 BOISE ID 83720-0098	☐ U.S. Mail, Postage Prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile ☐ E-Mail ☒ Statehouse Mail

Victoria Wyle

ATTACHMENTS TO

***REPLY IN SUPPORT OF STATE OF IDAHO'S
MOTION FOR SUMMARY JUDGMENT,
IN RE SRBA CASE NO. 39576,
SUBCASE NOS. 63-33732, [etc.]***
(Dec. 10, 2014)

“Notice of Claim To A Water Right Acquired Under State Law,”
Subcase No. 63-32579 (Dec. 8, 2006)

“Partial Decree Pursuant To I.R.C.P. 54(b) For Water Right No. 63-32579”
Subcase No. 63-32579 (Feb. 3, 2014)

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number: 63-32579
Date Received:
Receipt No: _____
Received By: _____

DEC 11 1963

d.e.
ps 12-12-66

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: UNITED STATES OF AMERICA, ACTING THROUGH 208-378-5306
Address: REGIONAL DIRECTOR, P.N. REGION CODE 3100
BUREAU OF RECLAMATION
1150 NORTH CURTIS ROAD SUITE 100
BOISE, ID 83706-1234

2. Date of Priority: FEB 28, 1909

3. Source: BOISE RIVER Trib. to: SNAKE RIVER

4. Point of Diversion:
Township Range Section 1/4 of 1/4 of 1/4 Lot County
02N 03E 03 NW SW ADA

5. Description of diverting works:
BOISE DIVERSION DAM, NEW YORK CANAL TO HUBBARD DAM

6. Water is used for the following purposes:
Purpose From To C.F.S. (or) A.F.A.
IRRIGATION STORAGE 01/01 12/31 4060.0
IRRIGATION FROM STORAGE 03/15 11/15 4060.0
GROUND WATER RECHARGE 01/01 12/31 100.00

7. Total Quantity Appropriated is:
100.00 C.F.S. (and/or)

TOTAL RESERVOIR CAPACITY IS 4060.0 ACRE FEET WHEN FILLED TO ELEVATION
2776 AND MEASURED AT THE UPSTREAM FACE OF THE DAM.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
GROUND WATER RECHARGE

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
----------	-------	---------	------------	-----	-----	-------

THE PLACE OF USE IS WITHIN ADA, CANYON, GEM COUNTIES, IDAHO AND MALHEUR COUNTY, OREGON (BIG BEND IRRIGATION DISTRICT).

11. Place of use in counties: ADA, CANYON, GEM COUNTIES, IDAHO AND MALHEUR COUNTY, OREGON (BIG BEND IRRIGATION DISTRICT).

12. Do you own the property listed above as place of use? The United States holds a flowage easement for the place of storage.

13. Other Water Rights Used: 63-251, 63-301, 63-302, 63-303, 63-373, 63-2106, 63-2109, 63-2212, 63-2322, 63-2388, 63-3613, 63-3614, 63-3618, 63-4868

14. Remarks: FILLING THE RESERVOIR TO ELEVATION 2771 WITH A QUANTITY OF 2053 ACRE FEET AS A ROUTINE IRRIGATION PRACTICE HAS BEEN UPHELD BY THE IDAHO SUPREME COURT. SEE E.G., MCKAY V. BOISE PROJECT BOARD OF CONTROL, 141 IDAHO 463 (2005). EMERGENCY OPERATION MAY REQUIRE FILLING TO ELEVATION 2776. ID.

15. Basis of Claim: BENEFICIAL USE

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication."

(b.) I/We do wish to receive and pay a small annual fee for monthly copies of the docket sheet.

For Organizations: I do solemnly swear or affirm that I am Snake River Area Office Manager
Title

of The Bureau of Reclamation, that I have signed the foregoing
Organization

document in the space below as Manager of Snake River Area Office, Bureau of Reclamation
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent [Signature]

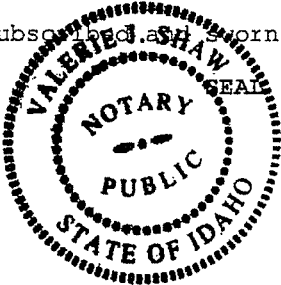
Title and Organization Manager, Snake River Area Office, Bureau of Reclamation

Date 12/8/2006

State of Idaho)

County of Ada)

Subscribed and sworn (or affirmed) before me this 8 day of Dec 2006



Notary Public Valerie J Shaw

Residing at Meridian

My Commission Expires 6-2-2012

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed blow.

Signature _____

Address _____

Last Name _____ Ident. Number _____

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 63-32579

NAME AND ADDRESS: UNITED STATES OF AMERICA
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: 4060.00 AFY

PRIORITY DATE: 02/15/1929

POINT OF DIVERSION: T02N R03E S03 NWSW Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation Storage	01-01 TO 12-31	4060.00 AFY
	Irrigation from Storage	03-01 TO 11-15	4060.00 AFY

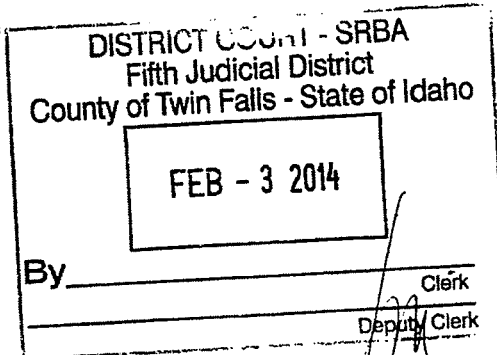
PLACE OF USE:

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.

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

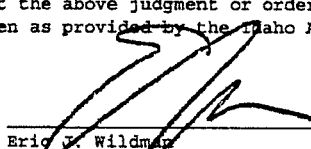
The name of the United States of America acting through the Bureau of Reclamation appears in the Name and Address sections of this partial decree. However, as a matter of Idaho Constitutional and Statutory Law, title to the use of the water is held by the consumers or users of the water. The irrigation 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. I.C. SECTION 42-1412(6).



RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication



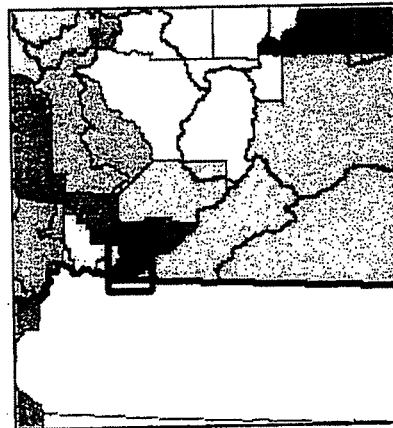
United States Of America Acting Through BOR

Adjudication Recommendations: 63-2212, 63-32579

Irrigation Service Area Boundary
GIS Place of Use Illustration

Legend

- Service Area
- State Outline
- Townships
- PLS Sections



Canyon, Malheur Or Counties
DWR Basin 63

Prepared by Fayreau, Danielle
On May 03, 2011
1987/88 Aerial Photography

