

LATE CLAIM DIRECTOR'S REPORT

Water Right No. 25-14413
(Now Recommended as Water Right Nos. 25-14413A and 25-14413B)

In Re SRBA
Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
Gary Spackman, Director
Carter Fritschle, Manager, Adjudication Section

January 30, 2015

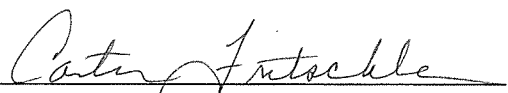
DESCRIPTIVE SUMMARY

This is a Late Claim Director's Report submitted by the Director of the Idaho Department of Water Resources.

DISCUSSION

Pursuant to the *Order for Expedited Late Claim Director's Report and Setting Forth Procedures and Deadlines for Expedited Process* issued by Judge Eric J. Wildman on November 19, 2014 (see attached), the Director submits this Late Claim Director's Report for water right 25-14413. The Director has split the use claimed solely under water right 25-14413 and is recommending the use as water rights 25-14413A and 25-14413B. The Director recommends parent right 25-14413 for disallowal.

Respectfully submitted this 30th day of January, 2015.


CARTER FRITSCHLE
Manager, Adjudication Section

01/30/2015

IDAHO DEPARTMENT OF WATER RESOURCES
CLAIMS / RIGHTS NOT RECOMMENDED

<u>W.R. NUMBER</u>	<u>NAME AND ADDRESS</u>	<u>CLAIM DISPOSITION</u>	<u>REASON</u>
25-14413	UNITED STATES OF AMERICA ACTING THROUGH BUREAU OF RECLAMATION REGIONAL DIRECTOR PN CODE-3100 1150 N CURTIS RD STE 100 BOISE ID 83706-1234	Disallowed	Recommended as Right Nos. 25-14413A and 25-14413B.

01/30/2015

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

RIGHT NUMBER: 25-14413A

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: WILLOW CREEK

TRIBUTARY: SNAKE RIVER

QUANTITY: 228,000.00 AFY

Water right nos. 25-7004, 25-14413A and 25-14413B are limited to the total combined annual diversion volume necessary to allocate a total of 80,500 acre-feet of irrigation storage water per year to the consumers or users of the irrigation storage water.

PRIORITY DATE: 10/31/1984

This water right is subordinate to all existing and future water rights established pursuant to Idaho law for use within the Snake River Basin above Milner.

POINT OF
DIVERSION:

T03N R40E S22 NWNW Within BONNEVILLE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION STORAGE	01/01 12/31	228,000.00 AFY

Water accruing to this water right supplements water accrued under water right no. 25-7004, and water available under this water right will be allocated for end use as provided in contracts entered into between the United States and federal contractors referenced in provision 2 as if it had accrued under water right no. 25-7004.

PLACE OF USE:

Place of use is on those lands identified under water right no. 25-7004.

Place of use for storage is Ririe 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 Water District 01 Watermaster (as supervised by the Director of the Department of Water Resources), the Water District 01 advisory committee, and the United States Bureau of Reclamation that such temporary storage will maximize the storage of water upstream of Milner Dam.

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

1. 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.

2. The allocation of storage to federal contractors and the location of that storage, including carryover storage, in the reservoir system shall be determined by the United States Bureau of Reclamation pursuant to federal reclamation law and contracts entered into between the United States and federal contractors. The Water District 01 Watermaster (as supervised by the Director of the Department of Water Resources) shall distribute the stored water in accordance with the allocation instructions from the United States Bureau of Reclamation. "Reservoir system" shall mean all Federal reservoirs on the Snake River and its tributaries down to and including Lake Walcott, which store water for distribution pursuant to water right nos. 1-219, 1-2064, 1-2068, 1-4055, 1-10042, 1-10043, 1-10044, 1-10045, 1-10620, 1-10621A, 1-10621B, 1-10622, 1-10623, 21-2156, 21-4155, 21-10560, 21-13161, 21-13194, 25-7004, 25-14413A and 25-14413B.
3. 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 ultimately be 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.
4. The operation, use and administration of this water right is subject to the terms and conditions of the Settlement Agreement signed on February 14, 2006 with Minidoka Irrigation District, Burley Irrigation District, Twin Falls Canal Company, North Side Canal Company and American Falls Reservoir District #2.
5. This decree does not alter, amend, or modify the contracts entered into between the various federal contractors and the United States Bureau of Reclamation, as amended, including but not limited to the contractual storage exchanges, in connection with the Palisades project and the Minidoka project, which contracts remain binding among the parties.
6. The exercise and administration of this water right is subject to the terms and conditions of the Stipulation effective _XX/XX_, 2015, which is incorporated herein by reference.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

This right is based upon an enlargement of Right No. 25-7004 pursuant to Section 42-1426, Idaho Code.

This right was renumbered from former claim 25-14413.

01/30/2015

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

RIGHT NUMBER: 25-14413B

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: WILLOW CREEK

TRIBUTARY: SNAKE RIVER

QUANTITY: 12,000.00 AFY

Water right nos. 25-7004, 25-14413A and 25-14413B are limited to the total combined annual diversion volume necessary to allocate a total of 80,500 acre-feet of irrigation storage water per year to the consumers or users of the irrigation storage water.

Water will not accrue towards the satisfaction of this water right until the United States of America, acting through the Bureau of Reclamation, has notified the Water District 01 Watermaster of the calendar date on which it intends to store water pursuant to this water right. Following initial notification, the United States can provide notification directing the Water District 01 Watermaster to stop and start the accrual of water pursuant to this water right, until the water right has been satisfied. All notification must be made in writing. Each notification must identify a specific calendar date on which administrative action should occur. The identified calendar date cannot predate the date of written notification.

This water right is limited to the total space evacuated for local flood control operations as determined by the Water District 01 Watermaster, prior to the date of final storage allocation not to exceed 12,000 acre-feet. 'Local flood control operations' are reservoir flood control operations in accordance with the Act of September 30, 1950, Public Law 81-864, 64 Stat. 1083-85, as amended or supplemented, and the operating plan for Ririe Reservoir as it may be revised pursuant to the forgoing laws. The watermaster's determination of the space evacuated for flood control is made for the purpose of determining the distribution of natural flow to this water right in accordance with state law. The watermaster's determination shall not bind the United States, nor have any effect on the United States' determinations, authority, or discretion under federal law in operating this reservoir for local flood control purposes.

PRIORITY DATE: 10/31/1982

POINT OF

DIVERSION: T03N R40E S22 NWNW Within BONNEVILLE County

PURPOSE AND

PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION STORAGE	03/15 07/31	12,000.00 AFY

Water accruing to this water right supplements water accrued under water right no. 25-7004, and water available under this water right will be allocated for end use as provided in contracts entered into between the United States and federal contractors referenced in provision 2 as if it had accrued under water right no. 25-7004.

PLACE OF USE:

Place of use is on those lands identified under water right no. 25-7004.

Place of use for storage is Ririe 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 Water District 01 Watermaster (as supervised by the Director of the Department of Water Resources), the Water District 01 advisory committee, and the United States Bureau of Reclamation that such temporary storage will maximize the storage of water upstream of Milner Dam.

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

1. 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.
2. The allocation of storage to federal contractors and the location of that storage, including carryover storage, in the reservoir system shall be determined by the United States Bureau of Reclamation pursuant to federal reclamation law and contracts entered into between the United States and federal contractors. The Water District 01 Watermaster (as supervised by the Director of the Department of Water Resources) shall distribute the stored water in accordance with the allocation instructions from the United States Bureau of Reclamation. "Reservoir system" shall mean all Federal reservoirs on the Snake River and its tributaries down to and including Lake Walcott, which store water for distribution water pursuant to water right nos. 1-219, 1-2064, 1-2068, 1-4055, 1-10042, 1-10043, 1-10044, 1-10045, 1-10620, 1-10621A, 1-10621B, 1-10622, 1-10623, 21-2156, 21-4155, 21-10560, 21-13161, 21-13194, 25-7004, 25-14413A and 25-14413B.
3. 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 ultimately be 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.
4. The operation, use and administration of this water right is subject to the terms and conditions of the Settlement Agreement signed on February 14, 2006 with Minidoka Irrigation District, Burley Irrigation District, Twin Falls Canal Company, North Side Canal Company and American Falls Reservoir District #2.
5. This decree does not alter, amend, or modify the contracts entered into between the various federal contractors and the United States Bureau of Reclamation, as amended, including but not limited to the contractual storage exchanges, in connection with the Palisades project and the Minidoka project, which contracts remain binding among the parties.
6. Combined use limit amongst 01-10621B and 25-14413B not to exceed 1,043,298 acre feet.
7. For surface water right administration this water right is subordinate to all water rights permitted, licensed, or decreed prior to May 1, 2014 that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right. The administration of this water right and ground water rights is addressed in Provision 8 below.
8. For conjunctive administration this water right shall not be used as the basis for a water right delivery call, nor shall it be the basis for a defense to a water right delivery call; provided, the Director of IDWR may consider the effect of Provision 7 above on the total supply of water available to the calling party. Further, this water right shall not be construed as an admission or waiver of any available claims or defenses related to the conjunctive administration of water right no. 25-7004.
9. The exercise and administration of this water right is subject to the terms and conditions of the Stipulation effective _XX/XX_, 2015, which is incorporated herein by reference.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

This right is based upon an enlargement of Right No. 25-7004 pursuant to Section 42-1426, Idaho Code.

This right was renumbered from former claim 25-14413.

CERTIFICATE OF SERVICE

I certify that on January 30th, 2015, I caused to be served a true and correct copy of this Late Claim Director's Report, to the following persons, in the manner indicated and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☒ E-mail

2. Copies to:

Chief, Natural Resources Div.
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, ID 83720-0010

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ E-mail

United States Department of Justice
Environment & Natural Resources Div.
550 W. Fort Street MSC 033
Boise, ID 83724

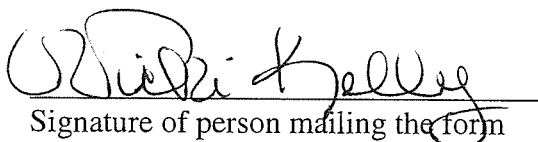
☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ E-mail

David W. Gehlert
Natural Resources Section
Environment and Natural Resources Division
U.S. Department of Justice
999 18th Street
South Terrace – Suite 370
Denver, CO 80294

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ E-mail

Bonneville County Courthouse
605 N Capital Ave.
Idaho Falls, ID 83402

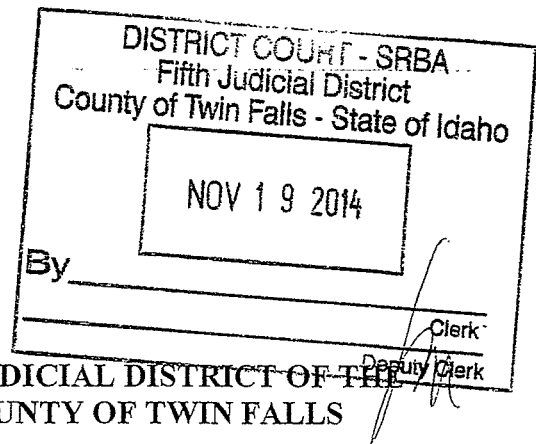
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Signature of person mailing the form

RECEIVED

NOV 20 2014

DEPARTMENT OF
WATER RESOURCES



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) WATER RIGHT NO: 25-14413
Case No. 39576) ORDER GRANTING LATE NOTICE OF
CLAIM
ORDER FOR EXPEDITED LATE CLAIM
DIRECTOR'S REPORT AND
SETTING FORTH PROCEDURES AND
DEADLINES FOR EXPEDITED PROCESS

On December 1, 2011, this Court entered an *Order* in SRBA subcase no. 00-92099 and Twin Falls County Case No. 39576 closing Basin 25 to the filing of non-deferrable late claims ("*Order*").¹ On August 18, 2014, the United States of America, Bureau of Reclamation, filed a *Motion to File Late Notice of Claim* for the above-captioned water right. A hearing on the *Motion* was held on November 18, 2014. No one appeared in opposition to the *Motion*.

Following a review of the file and after hearing the comments made in open court, the Court found that the United States had set forth sufficient grounds to justify the filing of the *Motion*. The justifications and rationale supporting the Court's holding were orally set forth on the record at the November 18, 2014, hearing. Additionally, the Court, for the reasons set forth on the record, found good cause and a meritorious position for the *Motion to File Late Notice of Claim*. At the hearing, it was represented to the Court by the Idaho Department of Water Resources ("IDWR") that, if granted, this late claim would be a candidate for an expedited late claim director's report given the current stage of Snake River Basin Adjudication.

Accordingly, following a review of the file and after hearing the comments made in open court, the Court makes the following findings:

¹ The *Order* was entitled *Order Closing Claims Taking Basins 23, 24, 25, 43, 51, 55, 57, 61, 81, 82, 83, 84, 85, and 86 and Disallowal of Unclaimed Water Rights*.

1. The *Motion to File Late Notice of Claim* complied with all procedural requirements under *SRBA Administrative Order 1*, and no objections were made to the *Motion*. The Court also notes the *Motion* was filed and pending before the Court prior to its entry of the *SRBA Final Unified Decree*. Although this Court previously entered an *Order* in Basin 25 closing the Basin to the filing of late claims generally, the Court finds that this claim was filed as a result of ongoing litigation, and therefore fits into one of the exceptions to the closure set forth in this Court's *Order*.

2. In limited circumstances it is preferable to have a *Late Claims Director's Report* for certain late claims individually prepared and filed. This is on a case-by-case basis and provided IDWR does not oppose preparing and filing an expedited *Late Claims Director's Report*.

3. In this case IDWR does not oppose preparing and filing an expedited *Late Claim Director's Report* for the late claim, given that the final regularly scheduled SRBA late claims director's report was filed December 31, 2013.

4. This Court therefore finds that under the circumstances the issuance of expedited *Late Claim Director's Reports* for the above-captioned claim is appropriate.

THEREFORE, IT IS HEREBY ORDERED that the *Motion to File a Late Notice of Claim* for water right claim 25-14413 is **granted**. The original Notice of Claim, as well as any attached filing fees, and a copy of this *Order* will be forwarded to IDWR for further action.

IT IS HEREBY FURTHER ORDERED that the Director issue an expedited *Late Claim Director's Report* for the above-captioned water right claim, and that the parties abide by the following schedule with respect to the late claim:

1. Deadline for filing *Late Claim Director's Report*: The Director shall file an original of the *Late Claim Director's Report* for the above-captioned water right claim with this Court on or before **January 30, 2015**, and shall distribute for display and review at least one (1) copy of the *Late Claim Director's Report* to the office of the clerk of the district court for each county in which any part of the water system is located, together with a copy of this *Order*. The Director shall also serve on each claimant or the claimant's attorney a notice of filing of the *Late*

Claim Director's Report. Last, the Director shall file with the Court an affidavit demonstrating compliance with the notice requirements of Idaho Code § 42-1411(6).

2. Deadline for the filing of objections to *Late Claim Director's Report*: Any party wishing to file an objection to the *Late Claim Director's Report* may do so on or before **February 27, 2015**.

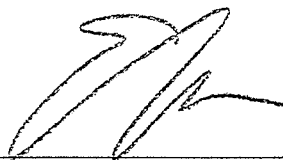
3. Deadline for the filing of responses to objections to *Late Claim Director's Report*: Responses to objections to the *Late Claim Director's Report* must be filed on or before **March 20, 2015**.

4. Hearing on uncontested claim: In the event no objections are filed, the Court will hold a hearing on the entry of the ***Partial Decree*** as required by I.C. § 42-1412(7). **NOTICE IS HEREBY GIVEN** that the hearing will be held on **April 21, 2015, at 1:30 p.m. (Mountain Time)**, at the **Snake River Basin Adjudication District Court, 253 - 3rd Avenue North, Twin Falls, Idaho**. Parties may participate by telephone by dialing the number 1-215-446-0193 and when prompted entering code 406128#.

5. Publication of Notice: The clerk of the court is instructed to publish a notice of the issuance of this order, together with the applicable objection, response and hearing date, on the December 2014 docket sheet.

IT IS SO ORDERED.

Dated November 19, 2014



ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

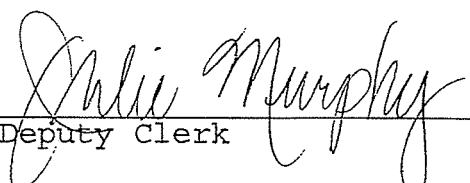
I certify that a true and correct copy of the ORDER GRANTING LATE NOTICE OF CLAIM / ORDER FOR EXPEDITED LATE CLAIM DIRECTOR'S REPORT & SETTING PROCEDURES & DEADLINES was mailed on November 19, 2014, with sufficient first-class postage to the following:

UNITED STATES OF AMERICA

Represented by:

US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

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

A handwritten signature in cursive script, reading "Julie Murphy", is written over a horizontal line.