

RECEIVED

JUN 06 2016

DEPARTMENT OF
WATER RESOURCES

JOHN C. CRUDEN
Assistant Attorney General
Environmental and Natural Resources Division
DAVID W. GEHLERT
Natural Resources Section
Environment and Natural Resources Division
U.S. Department of Justice
999 18th Street
South Terrace – Suite 370
Denver, Colorado 80294
Phone: (303) 844-1386
Fax: (303) 844-1350

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 Nos.: 01-219, 01-10622, 01-2064,
	)	01-10042, 01-10620, 01-2068, 01-10043
Case No. 39576	)	01-10621A, 01-10621B, 01-4055, 01-10044
	)	01-10045, 01-10623, 01-10614, 01-10615
	)	01-10616, 01-10617, 01-10618, 21-2156,
	)	21-10560, 21-13161, 21-4155 and 25-7004
	)	
	)	STATUS REPORT
	)	
	)	

Pursuant to the Court's Order of May 27, 2016, the United States informs the Court that the United States signed the Stipulation on November 16, 2015 and that the United States has no objection to the State's *Motion for Order Decreeing Water Rights*. A copy of the Stipulation with all parties' signatures is attached. Counsel for the United States informed the other parties to the stipulation that it had signed the stipulation but neglected to inform the Court. Counsel for the United States apologizes for the oversight.

/

/

/



David W. Gehlert

CERTIFICATE OF SERVICE

I certify that on June 2, 2016, I served true and correct copies of the foregoing STATUS REPORT 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
Fax: 208-736-2121

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

A. Dean Tranmer
City of Pocatello
PO Box 4169
Pocatella, ID 83201

Charles F. McDevitt
PO Box 1543
Boise, ID 83701-1543

Andrew J. Waldera
Sawtooth Law Offices PLLC
PO Box 7985
Boise, ID 83707

Adam T. Devoe
Brownstein Hyatt & Farber PC
410 17th Street, 22nd FL
Denver, CO 80202-4437

Sarah A. Klahn
White & Jankowski LLP
Kittredge Building
511 16th street, STE 500
Denver, CO 80202

W. Kent Fletcher
Fletcher Law Office
P. O. Box 248
Burley, ID 83310248

C.Thomas Arkoosh
Arkoosh Law Offices
P.O. Box 2900
Boise, ID 83701

Michael A. Ealy
PO Box 1336
Coeur d'Alene, ID 83816-1336

John K. Simpson
Shelley M. Davis
P.O. Box 2139
Boise, ID 83701-2139

Roger D. Ling
Ling Law Office
P.O. Box 623
Rupert, ID 83350-0623

James C. Tucker
Idaho Power Company
P.O. Box 70
Boise, ID 83707-0070

Greg D. Hobdey
Hobdey Law Office PLLC
PO Box 176
Gooding, ID 83330-0176

Randall C. Budge
P.O. Box 1391
Pocatello, ID 83204-1391

Christopher H. Meyer
PO Box 2720
Boise, ID 83701-2720

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

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

Bureau of Reclamation
Regional Director PN Code-3100
1150 N. Curtis Rd. STE 100
Boise, ID 83706-1234

Director of IDWR
Idaho Water Center
P.O. Box 83720
Boise, ID 83720-0098

Jerry R. Rigby
Rigby Andrus & Rigby
P.O. Box 250
Rexburg, ID 83440-0250

Travis L. Thompson,
Paul L. Arrington
Barker Rosholt & Simpson LLP
PO Box 63
Twin Falls, ID 83303-0063


David W. Gehlert

**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. 01-219, 01-10622
) (Lake Walcott)

)
) Subcase Nos. 01-02064, 01-10042,
) 01-10620
) (American Falls)

)
) Subcase Nos. 01-02068, 01-10043,
) 01-10621A, 01-10621B
) (Palisades)

)
) Subcase Nos. 01-4055, 01-10044, 01-10045,
) 01-10623
) (Jackson Lake)

)
) Subcase Nos. 21-2156, 21-10560, 21-13161
) (Island Park)

)
) Subcase No. 21-4155, 21-13194
) (Grassy Lake)

)
) Subcase Nos. 21-2154, 21-2161, 21-12946,
) 21-13193
) (Henry's Lake)

)
) Subcase Nos. 25-7004, 25-14413A, 25-
) 14413B
) (Ririe)

)
) Subcase Nos. 01-10614, 01-10615
) 01-10616, 01-10617, 01-10618
)

STIPULATION

This Stipulation is made and entered into among the Parties to the above-referenced subcases and the Director ("Director") of the Idaho Department of Water Resources ("Department").¹ The Parties, by and through their counsel of record, and the Director hereby stipulate and agree as follows:

1. This stipulation resolves disputes regarding the "fill" and/or "refill" of the storage water rights for on-stream reservoirs in Basins 01, 21 and 25 that have arisen in various SRBA proceedings including but not limited to subcase nos. 01-2064, 01-2068, and 00-91017, and issues reserved under paragraph 11 of the *Stipulation* of September 25, 2012 "concerning a 'refill' remark" and "any issues arising in the Basin Wide 17 proceeding."²

2. The proposed partial decrees set forth in Attachment A to this stipulation will be submitted as a full and final resolution of the following storage water right claims filed by the United States Bureau of Reclamation ("USBR"):

01-10622 (Lake Walcott)
01-10620 (American Falls)
01-10621A (Palisades)
01-10621B (Palisades)
01-10623 (Jackson Lake)
21-13161 (Island Park)

3. The proposed recommendations set forth in Attachment B to this stipulation will be submitted as Director's recommendations for the following storage water right claims filed by the USBR and North Fork Reservoir Co.:

21-13193 (Henrys Lake)

¹ The Director and the Idaho Department of Water Resources are not "parties" to the Snake River Basin Adjudication but the Director is included, acting for the Department, as a bound signatory to this stipulation as the Director is vested with the direction and control of the distribution of water from all natural water sources within a water district pursuant to Idaho Code § 42-602.

² *Stipulation, Subcase Nos. 01-219, et al.* (Sep. 25, 2012), at 6-7.

21-13194 (Grassy)
25-14413A (Ririe)
25-14413B (Ririe)

The Parties agree not to object to the Director's recommendations for these water rights and agree the water rights should be decreed as recommended.

4. The water right claims and recommendations identified in paragraphs 2 and 3 above are collectively referenced as "Enlargement Storage Water Rights."

5. The following storage water right claims filed by the Surface Water Coalition³ will be decreed disallowed by the SRBA District Court:

01-10614 (Jackson Lake)
01-10615 (Palisades)
01-10616 (American Falls)
01-10617 (Lake Walcott)
01-10618 (American Falls)

6. Storage water rights nos. 01-219 (Lake Walcott), 01-2064 (American Falls), 01-10042 (American Falls), 01-2068 (Palisades), 01-10043 (Palisades), 01-4055 (Jackson Lake), 01-10044 (Jackson Lake), 01-10045 (Jackson Lake), 21-2156 (Island Park), 21-10560 (Island Park), 21-4155 (Grassy Lake), 21-2154 (Henry's Lake), 21-2161 (Henry's Lake), 21-12946 (Henry's Lake), and 25-7004 (Ririe) are the licensed and decreed storage water rights for the parenthetically-identified reservoirs, and are referenced herein as the "Base Storage Water Rights," to distinguish them from the "Enlargement Storage Water Rights" for the same reservoirs, which are identified above in paragraphs 2 and 3.

7. Partial decrees have been entered for the Base Storage Water Rights for Henry's Lake. These partial decrees should be modified to include in their "Quantity" elements the same

³ For purposes of this stipulation, the "Surface Water Coalition" consists of: A&B Irrigation District, American Falls Reservoir District No. 1, American Falls Reservoir District No. 2, Burley Irrigation District, Falls Irrigation District, Hillsdale Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company. *Memorandum In Support Of Motion To File Late Notices Of Claims, Subcase Nos. 01-10614, 01-10615, 01-10616, 01-10617, 01-10618 and 01-10619* (Jan. 11, 2013).

combined volume limitation remark that appears in the "Quantity" element of the Enlargement Storage Water Right for Henrys Lake (21-13193). The proposed partial decrees for the Henrys Lake Base Storage Water Rights as so modified and a proposed motion to set aside the decrees are attached hereto in Attachment C.

8. Partial decrees should be entered for the remaining Base Storage Water Rights as set forth in Attachment D hereto.

9. If partial decrees are entered for the Base Storage Water Rights and the Enlargement Storage Water Rights as proposed in Attachments A, B, C, and D hereto (collectively and individually, the "Storage Water Rights"), all natural flow arising upstream from the decreed point of diversion of a Storage Water Right, after subtracting the natural flow delivered to water rights with identical or earlier priorities, will be accrued⁴ towards the annual volume set forth in the "Quantity" element of the Storage Water Right, except as otherwise provided by the condition under the "Quantity" element of water right numbers 01-10621B (Palisades) and 25-14413B (Ririe) providing for the opportunity to "stop and start" the accrual of water. The amount of water accrued towards the annual volume set forth in the "Quantity" element of a Storage Water Right will not be determined or adjusted on the basis of reservoir contents or on the basis of releases of water from the reservoir(s).

10. Water accrued to the Enlargement Storage Rights shall be allocated to federal contractors and to uncontracted space in reservoirs that 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, 21-2154, 21-2156, 21-2161, 21-4155, 21-10560, 21-12946, and 25-7004.

⁴ The term "accrued" as used herein and in the proposed partial decrees attached hereto refers to accounting accruals rather than to increases in the volume of water physically stored in the reservoir(s). Water that is "accrued" towards the annual volume of a Storage Water Right is water that has been "counted" or "credited" for purposes of accounting for the distribution of natural flow to the Storage Water Right in accordance with its decreed elements.

11. The priority date of the Enlargement Storage Water Rights shall not affect the allocation of storage water between reservoirs.

12. Pursuant to Idaho Rule of Evidence 408, nothing in the Stipulation, including the stipulated entry of Partial Decrees or other evidence or pleading submitted or relied upon for approval of the Stipulation, or any offers or compromises made in the course of negotiating the Stipulation, shall be construed as admissions against interest or tendered or used as evidence to support or oppose any party's claims or objections in the SRBA or in any other adjudication involving claims for the same or similar purposes, including the quantities of water claimed, or in any other manner by any party in the SRBA in any future proceeding, other than those for interpretation, enforcement or administration of the Stipulation or the Partial Decrees or for a purpose contemplated by Rule 408.

13. Each of the undersigned represent that they are authorized to execute this Stipulation on behalf of the entity they represent.

14. Nothing in this Stipulation shall be construed as creating liability against the United States for any claims related to or arising from flood control releases.

15. This Stipulation may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

16. This Stipulation shall become effective after execution by all signatories.

///

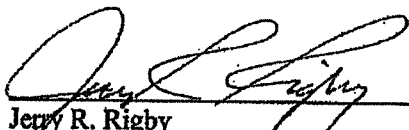
///

///

///

///

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

 1-27-15

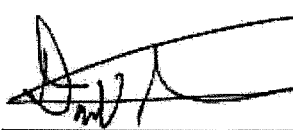
Jerry R. Rigby Date
Attorney for Fremont-Madison Irrigation
District, Idaho Irrigation District, North Fork
Reservoir Company and Blackfoot Irrigation
Company

FLETCHER LAW OFFICE

 1-28-15

W. Kent Fletcher Date
Attorney for Minidoka Irrigation District
and American Falls Reservoir District No. 2

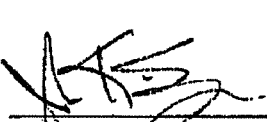
UNITED STATES DEPT. OF JUSTICE

 11/16/15

Date

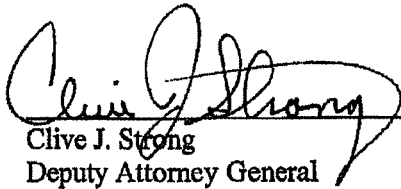
David Gehlert
Attorney for United States
Bureau of Reclamation

BARKER RSHOLT & SIMPSON LLP

 1/28/15

John K. Simpson Date
Attorney for A&B Irrigation District, Burley
Irrigation District, Hillsdale Irrigation
District, North Side Canal Company,
Twin Falls Canal Company, American Falls
Reservoir District #1, Falls Irrigation District,
Milner Irrigation District

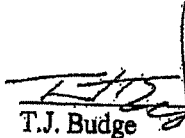
IDAHO ATTORNEY GENERAL'S OFFICE

A handwritten signature in black ink, appearing to read "Clive J. Strong", written over a horizontal line.

Clive J. Strong
Deputy Attorney General
Attorney for State of Idaho

1/29/15
Date

RACINE OLSEN NYE BUDGE & BAILEY

 1.26.2015
T.J. Budge Date
Attorney for Aberdeen American Falls
Groundwater District, Bingham
Groundwater District, Bonneville
Jefferson Groundwater District,
Carey Valley Groundwater District,
Jefferson Clark Groundwater District,
Madison Groundwater District,
Magic Valley Groundwater District,
North Snake Groundwater District.

WHITE & JANKOWSKI



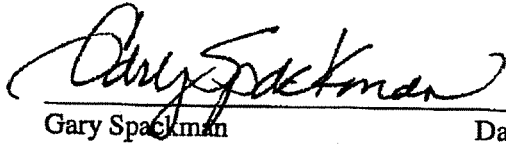
1-27-15

Sarah Klahn

Date

Attorney for City of Pocatello

IDAHO DEPARTMENT OF WATER RESOURCES

 1/29/2015

Gary Spackman

Date

Director

Idaho Department of Water Resources