

DEPARTMENT OF
WATER RESOURCES

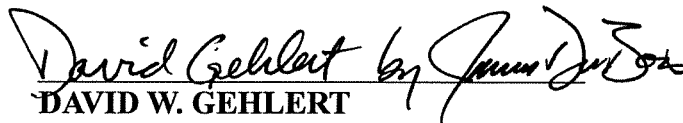
DAVID W. GEHLERT

BAR 81,311

10/1/2016

DATED this 14th day of July, 2016.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David Gehlert by James J. Esch".

DAVID W. GEHLERT

Natural Resources Section

Environment and Natural Resources Division

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the UNITED STATES' NOTICE OF FILING was mailed on July 14, 2016, as follows:

Original via FedEx mail:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
Twin Falls, ID 83303
Phone: 208-736-3011

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

STATE OF IDAHO
CHIEF NATURAL RESOURCES DIV
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
PO BOX 83720
BOISE, ID 83720-0010
Phone: 208-334-2400

UNITED WATER IDAHO INC
CHRISTOPHER H MEYER
601 W BANNOCK ST
PO BOX 2720
BOISE, ID 83701-2720
Phone: 208-388-1200

LITTLE WOOD RIVER IRRIGATION
DAVID A. COLEMAN
PO BOX 525
TWIN FALLS, ID 83303-0525
Phone: 208-734-1224

UNITED STATES OF AMERICA
USDI BUREAU OF RECLAMATION
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

UNITED STATES OF AMERICA
REGIONAL DIRECTOR PN REGION
BUREAU OF RECLAMATION PN-3100
1150 N CURTIS RD STE 100
BOISE, ID 83706-1234
Phone: 208-378-5306


DAVID W. GEHLERT
Natural Resources Section
Environment and Natural Resources Division

**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. 37-2773, 37-2774 37-2779,
) 37-2783, 37-22806A, and 37-22806B
) (Little Wood Reservoir)
)

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 Basin 37 that have arisen in various Snake River Basin Adjudication ("SRBA") proceedings including but not limited to SRBA subcase no. 00-91017.

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"):

37-22806A (Little Wood Reservoir)
37-22806B (Little Wood Reservoir)

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.

3. The water right claims and recommendations identified in paragraph 2 above are collectively referenced as "Enlargement Storage Water Rights." The Parties agree the Enlargement Storage Water Rights shall be decreed as set forth in Attachment A.

4. Storage water rights nos. 37-2773, 37-2774, 37-2779, and 37-2783 (Little Wood Reservoir) are storage water rights for the parenthetically-identified reservoir, 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.

5. Partial decrees have been entered by the SRBA District Court for Base Storage Water Rights. The Parties agree the partial decrees for the Base Storage Water Rights for each reservoir should be modified to include in their "Quantity" elements the same combined volume limitation remark that appears in the "Quantity" element of the Enlargement Storage Water Right for each reservoir. The proposed partial decrees as so modified and a proposed motion to set aside the decrees are attached hereto in Attachment B.

6. The Parties agree that 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 accrued² towards the annual volume set forth in the "Quantity" element of the storage water right. 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).

7. Pursuant to Idaho Rule of Evidence 408, nothing in the Stipulation, including the

² 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.

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.

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

9. 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.

10. 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.

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

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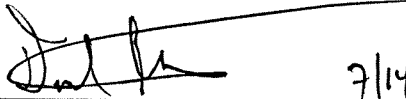
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UNITED STATES DEPT. OF JUSTICE

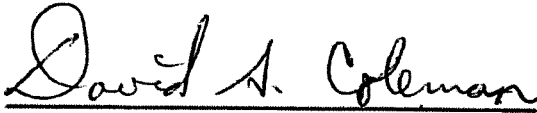


7/14/2016

David Gehlert
Attorney for United States
Bureau of Reclamation

Date

COLEMAN, RITCHIE & CLUFF

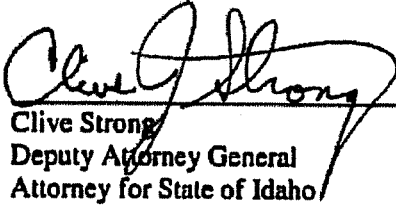


David A. Coleman

Date

Attorney for Little Wood River Irrigation District

IDAHO ATTORNEY GENERAL'S OFFICE

 6/18/15
Clive Strong Date
Deputy Attorney General
Attorney for State of Idaho

IDAHO DEPARTMENT OF WATER RESOURCES

 6/18/2015

Gary Spackman Date
Director
Idaho Department of Water Resources

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on _____, 2015, I caused to be served a true and correct copy of the foregoing STIPULATION by U.S. mail, postage pre-paid to the following:

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

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

United States of America
Bureau of Reclamation
Regional Director PN Code-3100
1150 N. Curtis Road, Ste. 100
Boise, ID 83706

Chief, Natural Resources Division
State of Idaho
Office of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

David A. Coleman
Coleman, Ritchie & Cluff
P.O. Box 525
Twin Falls, ID 83303-0525

Signature of Person Mailing this Document