

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. 21-13194
	)	
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.

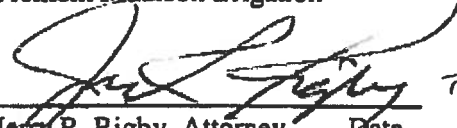
CLAIMANT:

United State of America Acting Through
Bureau of Reclamation

 7/21/16
David W. Gehlert, Attorney Date

OBJECTOR:

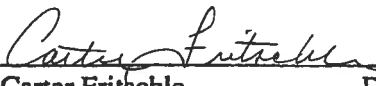
Fremont Madison Irrigation

 7-18-16
Jerry R. Rigby, Attorney Date

IDWR CONCURRENCE:

 7/28/16
Meghan Carter, GARRICK BAXTER Date
Deputy Attorney General
Attorney for IDWR

IDWR CONCURRENCE:

 7-26-16
Carter Fritschle Date
Manager, Adjudication Section

06/23/2016

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

RIGHT NUMBER: 21-13194

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
BUREAU OF RECLAMATION
REGIONAL DIRECTOR PN CODE-1100
1150 N CURTIS RD STE 100
BOISE ID 83706-1234

SOURCE: CASCADE CREEK
GRASSY SPRING

TRIBUTARY: FALL RIVER
TRIBUTARY: FALL RIVER

QUANTITY: 11,800.00 AFY

Water right nos. 21-4155 and 21-13194 are limited to the total combined annual diversion volume necessary to allocate a total of 15,204 acre-feet of irrigation storage water per year to the consumers or users of the irrigation storage water.

The quantity for this water right represents the maximum quantity of storage water that may be put to beneficial use under this right after the storage released from Grassy Lake enters the State of Idaho.

PRIORITY DATE: 10/31/1978

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: T09N R46E S17 Lot 3 Within FREMONT County
T09N R46E S17 Lot 3 Within FREMONT County

The point of diversion shown above is where Fall River enters the State of Idaho, recognizing, however, the storage water is physically stored in and released from Grassy Lake which is located within the State of Wyoming.

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION STORAGE	01/01 12/31	11,800.00 AFY

Water accruing to this water right supplements water accrued under water right no. 21-4155, 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. 21-4155.

PLACE OF USE:

Place of use does not include federal public lands unless authorized in writing by the United States Bureau of Reclamation.

Place of use is on those lands identified under water right no. 21-4155.

Place of use for storage is Grassy Lake, 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.

JP
OK
C1
AB

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. ~~Water accruing to this water right is to be allocated to and for the benefit of the spaceholders in Palisades Reservoir by the United States Bureau of Reclamation pursuant to the spaceholders' contracts.~~ The Water District 01 Watermaster as supervised by the Director of the Department of Water Resources shall distribute 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 and distribute 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. The storage of water for irrigation purposes occurs within the State of Wyoming pursuant to Certificate No. 4631-R and pursuant to the laws of that state and consistent with the Snake River Compact, and consistent with federal law, which provides for the operation of the Minidoka Project consistent with existing federal law and contracts entered into between spaceholders and the United States. The listing of irrigation storage is for information purposes only.
7. The exercise and administration of this water right is subject to the terms and conditions of the Stipulation effective ~~XX/XX~~ November 16, 2015, which is incorporated herein by reference.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

This right is based upon an enlargement of Water Right No. 21-4155 pursuant to Section 42-1426, Idaho Code.

JPR
DL
CF
JBT

CERTIFICATE OF SERVICE

I certify that on July 29th, 2016, I caused to be served a true and correct copy of this Standard Form 5, 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
☐ Facsimile

2. Copies to:

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

☐ Overnight Mail
☐ Regular Mail
☒ Hand-Delivered
☐ Facsimile

Jerry R. Rigby
25 N. 2nd E.
P.O. Box 250
Rexburg, ID 83440

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

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
☐ Facsimile

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

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☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

3. Courtesy copies to:

Sarah Klahn
White & Jankowski
511 16th Street, Ste. 500
Denver, CO 80202

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☒ Regular Mail
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☐ Hand-Delivered
☐ Facsimile

W. Kent Fletcher
Fletcher Law Office
P.O. Box 248
Burley, ID 83318

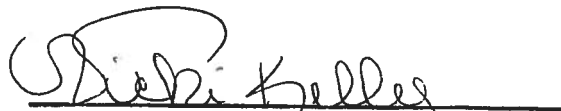
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Robert L. Harris
Holden, Kidwell, Hahn & Crapo, PLLC
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Idaho Falls, ID 83405

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

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☐ Hand-Delivered
☐ Facsimile



Signature of person or attorney mailing form