BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR TRANSFER NOS. 4616, 4617, 4618, 4623, 4624, 4625, 4626, 4627, 4628, 4629, 4630, 4631, 4632, 4633, 4636, AND FOR THE AMENDMENT OF WATER RIGHT PERMIT NOS. 25-07004 AND 63-03618 IN THE NAME OF THE UNITED STATES BUREAU OF RECLAMATION	)	ORDER STAYING PROCEEDINGS

On May 15, 1995, the United States Bureau of Reclamation (Bureau) filed fifteen applications for transfer of water rights and two applications for amendment of water right permits with the Idaho Department of Water Resources (Department). The applications seek approval to use a combined total of up to 427,000 acre feet of water per year from Bureau reservoirs for flow augmentation purposes as a proposed contribution to salmon recovery efforts. The applications seek authorization to release water for the requested purposes beginning in the Spring of 1996.

Pursuant to the consent of the parties, the director entered an order on September 19, 1995, providing among other things that the Bureau's pending applications would be held without further action until April 1, 1996. In accordance with the stipulation of the parties, the order also directed the parties to address the issues and concerns raised by the Bureau's applications through draft legislation or other alternative means.

Legislation prepared in response to the issues and concerns identified as a result of this proceeding was introduced before the 1996 Idaho Legislature as House Bill No. 704. The legislation was approved on March 15, 1996, as Session Laws Ch. 282 to be codified as section 42-1763B, Idaho Code, with an effective date of July 1, 1996. Subsection 5 of section 42-1763B provides that the section shall not become effective until the director certifies to the Governor that the U.S. Bureau of Reclamation's applications at issue in this proceeding will be held in abeyance until July 1, 1999. Section 42-1763B, Idaho Code, as added by H.B. 704 provides as follows:

> 42-1763B. INTERIM AUTHORITY FOR RENTAL OF STORAGE WATER TO AUGMENT FLOWS DURING THE MIGRATION OF SNAKE RIVER SALMON. (1) Legislative findings and intent regarding rental of storage water from U.S. bureau of reclamation projects in the Snake River basin within Idaho to augment lower Snake River flows during the migration of Snake River salmon.
>
> (a) The legislature finds that the U.S. bureau of reclamation requested the release of four hundred twenty-seven thousand (427,000) acre feet of water to augment salmon flows in order to satisfy the conditions of the biological opinion issued by the national marine fisheries service on March 2, 1995. The legislature authorizes the U.S. bureau of reclamation to release water from its projects under the limited conditions of this section in 1996, 1997, 1998 and 1999.
>
> (b) It is the intent of the legislature to promptly consider the repeal of subsections (2) and (3) of this section in the event that the provisions of the biological opinion issued by the national marine fisheries service on March 2, 1995, related to the provision of flows for salmon from the Snake River basin above Brownlee Reservoir are modified or declared arbitrary, capricious or otherwise unlawful, or are set aside by any federal court.
>
> (2) Rental of storage water from U.S. bureau of reclamation storage.
>
> (a) Notwithstanding the legislative approval required in section 42-108, Idaho Code, any storage water release from U.S. bureau of reclamation reservoirs within the state of Idaho for use to augment river flows during the migration of Snake River salmon pursuant to this section must be

rented through the water bank operated by the Idaho water resource board pursuant to sections 42-1761 through 42-1764, Idaho Code, or through local water rental committees, created pursuant to section 42-1765, Idaho Code, under their respective water bank rules; provided however, that the agricultural preference provisions of local rental pool rules shall not apply to any uncontracted space rented by the U.S. bureau of reclamation pursuant to this section.

(b) For any rental of water pursuant to this section, the director shall not be required to determine under section 42-1763, Idaho Code, whether the water supply is sufficient for the purpose for which it is sought, whether the rental would cause the use of water to be enlarged beyond that authorized under the water right to be rented, whether such use is in the public interest, or whether such use is consistent with the factors enumerated under subsection (3) of section 42-401, Idaho Code.

(3) Conditions on storage water rentals.

(a) Any storage water made available under this section shall be obtained only from willing lessors. Any water rented under this section from reservoirs located within a basin having a local rental pool committee established pursuant to section 42-1765, Idaho Code, shall be rented pursuant to this section only through the local rental pool committee.

(b) Storage water made available under this section shall be limited to four hundred twenty-seven thousand (427,000) acre feet annually. These releases from storage shall be reduced by other water the U.S. bureau of reclamation provides for augmentation of salmon flows from the Snake River and its tributaries.

(c) In no event shall the release of water under this section cause the water surface of Cascade Reservoir to be below the elevation required to maintain a storage volume of three hundred thousand (300,000) acre feet, fifty thousand (50,000) acre feet of which is dead space, which is currently estimated to be at an elevation of four thousand eight hundred nine and two-tenths (4,809.2) feet.

(d) The U.S. bureau of reclamation shall submit a report to the director by January 15 of each year describing the time, volume, and purpose of storage water released for salmon purposes during the past year and shall report on the plan for releases for the spring and summer chinook by April 1 and on the plan for releases for the fall chinook by July 15 of each year.

(e) All storage water rented from U.S. bureau of reclamation reservoirs under this section must be used for power production purposes within the state of Idaho.

(f) Nothing herein shall entitle the U.S. bureau of reclamation to rent storage water upon termination or expiration of the permission given in this section.

(4) Nothing in this section shall be construed to alter in any way the existing contractual obligations of the U.S. bureau of reclamation or to constitute a finding by the legislature that the rental or use of storage water for augmentation of flows for salmon migration is a beneficial use of water, that it is in the public interest, or whether such use injures existing water rights.

(5) This section shall not become effective until the director certifies to the governor that the U.S. bureau of reclamation's applications to transfer water right numbers 4616, 4617, 4618, 4623, 4625, 4626, 4627, 4628, 4629, 4630, 4631, 4632, 4633 and 4636, and to amend water right permit numbers 25-07004 and 63-3618 will be held in abeyance until July 1, 1999.

(6) On and after January 1, 2000, this act shall be null, void and of no force and effect.

Having reviewed the prior stipulation of the parties in this proceeding and the provisions of House Bill 704, to be codified as section 42-1763B, Idaho Code, the director orders as follows:

ORDER

IT IS HEREBY ORDERED that, in accordance with the provisions of House Bill 704, to be codified as section 42-1763B(5), Idaho Code, effective July 1, 1996, the U.S. Bureau of Reclamation's Applications to transfer water right numbers 4616, 4617, 4618, 4623, 4624, 4625, 4626, 4627, 4628, 4629, 4630, 4631, 4632, 4633 and 4636, and to amend water right permit numbers 25-07004 and 63-3618 shall be held in abeyance until July 1, 1999.

IT IS FURTHER ORDER that:

1. All matters associated with this proceeding, including issues regarding the scope and nature of potential discovery and the holding of any hearing, shall be held in abeyance

until July 1, 1999, and the existing rights of the parties to raise issues regarding these matters shall not be diminished as a result of the issuance of this order.

2. The U.S. Bureau of Reclamation shall be authorized to release water to augment Snake River flows for salmon migration purposes during 1996, 1997, 1998 and 1999 in accordance with the provisions of section 42-1763B, Idaho Code.

3. Pursuant to section 42-1763B(3)(d), Idaho Code, the Bureau shall submit a report to the director by January 15 of each year describing the time, volume, and purpose of storage water released for salmon purposes during the past year and shall report on the plan for releases for the spring and summer chinook by April 1 and on the plan for releases for the fall chinook by July 15 of each year.

4. The Bureau, in addition, shall provide at least seven-days prior notice to the director of the actual amount, source and timing of water releases as they are made under section 42-1763B, Idaho Code, or if impracticable, as soon as feasible under the circumstances.

5. This is an interlocutory order issued pursuant to Rule 710 of the Department's Rules of Procedure, IDAPA 37.01.010710.

DATED this 5th day of June 1996.

KARL J. DREHER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have, this 7th day of June, 1996, served the foregoing upon all parties of record in this proceeding, according to the Department of Water Resource's most current service list, by mailing a copy thereof to each party.

Deborah Drew-Ellis
Legal Secretary

WARNING

The pending ~~transfer~~ amendment on this right is being held in abeyance until 7/1/1999 per Idaho Code, 42-1763B (effective 7/1/96) and Order Staying Proceedings dated 6/96.

NO FURTHER ACTION WILL BE TAKEN ON THIS RIGHT UNTIL 7/99!

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NOV 12 2002

Form 211
2/80

Ident. No. 63-3618

STATE OF IDAHO

APPROVED
RECEIVED
JUL 11 1990
Department of Water Resources
Western Regional Office

APPLICATION FOR AMENDMENT OF A PERMIT

To change the point of diversion and/or the place of use.

Comes now The United States of America acting through the Project Superintendent, Central Snake Project Office, Bureau of Reclamation Phone 334-1460

of (address) 214 Broadway, Boise, Idaho 83702, and represents to the

Director of the Idaho Department of Water Resources:

That he is the owner and delegated holder of Permit to Appropriate the Public Waters of the State of Idaho No. R-1183/63-3618, and requests that the permit and permit map be changed as follows:

1. Point of diversion: SE ¼ NE ¼, Section 11, Township 2N, Range 3E, B.M., County of Ada. Other points of diversion: Secondary diversions from the Boise River at various points downstream from Lucky Peak Reservoir.

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)

Amount 111,950 (cfs or acre feet per annum) for Storage for irrigation purposes from Jan. 1 to Dec. 31 (both dates inclusive)

Amount 111,950 (cfs or acre feet per annum) for Irrigation from storage purposes from Mar. 15 to Nov. 15 (both dates inclusive)

Amount 152,300 (cfs or acre feet per annum) for Storage for streamflow maintenance purposes from Jan. 1 to Dec. 31 (both dates inclusive)

Amount 152,300 (cfs or acre feet per annum) for Streamflow maintenance from storage purposes from Jan. 1 to Dec. 31 (both dates inclusive)

Amount 28,800 (cfs or acre feet per annum) for Storage for recreation purposes from Jan. 1 to Dec. 31 (both dates inclusive

3. Place of use or land to be irrigated: TOTAL OF 293,050 Acre feet

TWP	RGE	SEC	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
Supplemental irrigation of cultivated lands of the Boise Federal Reclamation Project Ada and Canyon counties.																			
Streamflow maintenance in the channel of the Boise River below Lucky Peak Reservoir. Lucky Peak Reservoir storage pool maintenance for Recreation.																			

Total number of acres to be irrigated = 277,000

4. a. Who owns the property at the point of diversion? United States of America

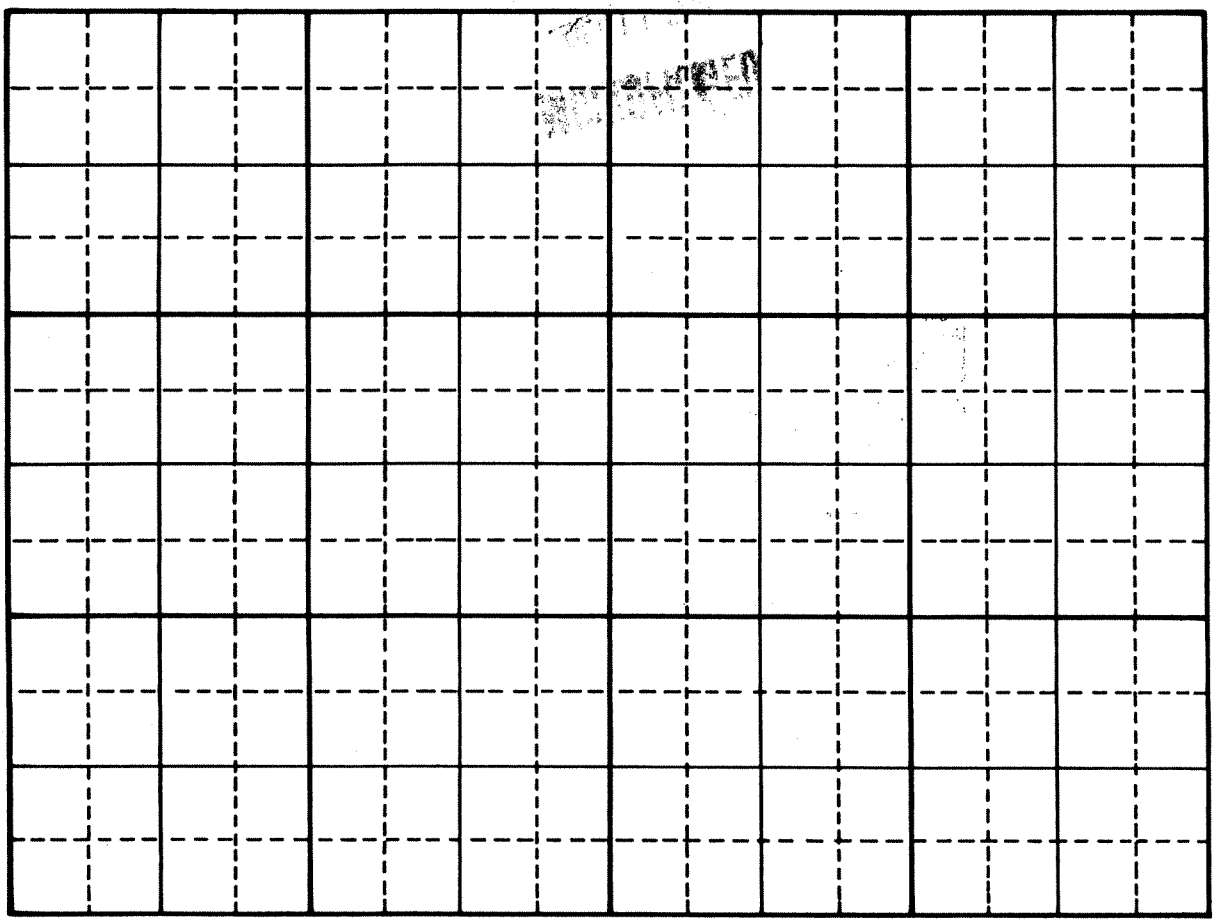
b. Who owns the land to be irrigated or the place of use? Various Water Users

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Administrator of Federal Reclamation Project.

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Complete the following map by showing land and point of diversion as proposed by this amendment.

Show 40-acre subdivisions, townships, ranges and ditches.



Scale: 2 inches equal 1 mile.

That no one will be injured by such change, and that such change will be made at permit holder's own risk.

Signed at Boise, Id, this 11 day of July, 19 90.

(Signature)

Project Superintendent

FOR DEPARTMENT USE ONLY

Preliminary check by DRT Fee = $20.00 W012633 Receipted by AH Date 8/13/90

Publication prepared by DRT Date 7/11/90 Published in Press-Tribune on 7/19 & 7/26/90

ID Statesman on 7/18 & 7/25/90

Publication dates 7/19/90 & 7/26/90

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, L. GLEN SAXTON, of the Department of Water Resources hereby approves the Application for Amendment of Permit No. 63-3013. See attached sheet for the conditions of approval.

DEC 11 1990

Witness my hand this 19th day of November, 19 90.

L. Glen Saxton

Chief, Water Alloc. Bureau

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CONDITIONS OF APPROVAL

for Amendment of Permit No. 63-3618

1. The allocation of 152,300 acre feet of storage space for stream flow maintenance includes 50,000 acre feet allocated for the same purpose under the original permit.

2. This amended distribution of storage space allocation expires as soon as streamflow maintenance water is repaid prior to the 1991 irrigation season.

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DEC 11 1990

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DEC 3 1990
Department of Water Resources
Western Regional Office

The Idaho Statesman

P.O. BOX 40, BOISE, IDAHO 83707

LEGAL ADVERTISING INVOICE

Amount Due
61.32

Account Name	Account Number
Idaho Department of Water Resources	47628

Address	City/State	Zip
2735 Airport Way	Boise ID	83705

Ordered By	P.O. Number	Rate	Run Dates
G. Garrett		nt	July 19, 26, 1990

Identification	Estimated Inches	Real Inches
Notice of Application for Amendment 63-3618		

Number of Affidavits Requested	Legal Number
1	6096

NOTICE OF APPLICATION FOR AMENDMENT

Notice is hereby given that Permit No. 63-3618 in the name of the United States Bureau of Reclamation was filed on 4/12/1963 for the diversion of 307,000 acre-feet from the Boise River with a point of diversion at Lucky Peak Dam within the SE¼ NE¼, Sec. 11, T. 2N., R. 3E., to be used for irrigation within the irrigation system of the Boise Valley.

On 2/14/1985 the permit was amended to change the nature of use to describe 111,950 acre-feet storage for irrigation from 1/1 to 12/31, 111,950 acre-feet irrigation from storage from 3/15 to 11/15, 152,300 acre-feet storage for streamflow maintenance from 1/1 to 12/31, 152,300 acre-feet streamflow maintenance from storage from 1/1 to 12/31, and 28,800 acre-feet storage for recreation from 1/1 to 12/31, for a total of 293,050 acre-feet.

The permit holder now proposes to amend the permit by allowing 32,500 acre-feet of streamflow maintenance water to be used for irrigation of lands served under existing storage water contracts in the Boise River system during the 1990 season. This temporary amendment is intended to expire as soon as the streamflow maintenance water is repaid prior to the 1991 irrigation season.

Any protest against the approval of the proposed amendment must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 on or before **August 6, 1990.** If protests are received, a hearing will be scheduled to be held on August [illegible], 1990. Copies of the Application for Amendment and associated explanatory documents are available upon request.

R. Keith Higginson
Director

Pub. July 19, 26, 1990

6096

MAIL FILED
DEC 11 1990

Debbie Richards, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto; that said notice was published in The Idaho Statesman in conformity with Section 60-108, Idaho Code as amended, for 2

XX consecutive weekly ☐ consecutive daily ☐ single ☐ odd skip

insertion(s) beginning with the issue of July 19, 19 90

and ending with the issue of July 26, 19 90

Debbie Richards

STATE OF IDAHO)
ss.
COUNTY OF ADA)

On this 26th day of July in the year of 1990, before me, a Notary Public, personally appeared Debbie Richards, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Notary Public for Idaho
Residing at Boise, Idaho
My commission expires: 4/1991

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss.
County of Canyon)

JUL 26 1990
Department of Water Resources
Western Regional Office

Kathleen D. Steed

of Nampa, Canyon County, Idaho, being first duly sworn, deposes and says:

1. That I am a citizen of the United States of America, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.

2. That I am the Principal Clerk of the Idaho Press-Tribune, a daily, (except Saturday) newspaper published in the City of Nampa and Caldwell, in the County of Canyon, State of Idaho; that the said newspaper is in general circulation in the said County of Canyon, and in the vicinity of Nampa and Caldwell, and has been uninterruptedly published in said County during a period of seventy-eight consecutive weeks prior to the first publication of the notice, a copy of which is hereto attached.

3. That the notice, of which the annexed is a printed copy, was published in said newspaper
Two Times
—in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.

4. That said notice was published the following dates:
July 18, 25, 1990

Kathleen D. Steed

STATE OF IDAHO)
)
COUNTY OF CANYON)

On this 25th day of July in the year of 1990, before me, a Notary Public, personally appeared Kathleen D. Steed, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he/she executed the same.

Janice Lusk

Notary Public for Idaho
Residing at Nampa

MY COMMISSION EXPIRES
JULY 12th, 1991

NOTICE OF APPLICATION FOR AMENDMENT

Notice is hereby given that Permit No. 63-3618 in the name of the United States Bureau of Reclamation was filed on 4/12/1963 for the diversion of 307,000 acre-feet from the Boise River with a point of diversion at Lucky Peak Dam within the SE¼ NE¼, Sec. 11, T2N., R. 3E., to be used for irrigation within the irrigation system of the Boise Valley.

On 2/14/1985 the permit was amended to change the nature of use to describe 111,950 acre-feet storage for irrigation from 1/1 to 12/31, 111,950 acre-feet irrigation from storage from 3/15 to 11/15,.. 152,300 acre-feet storage for streamflow maintenance from 1/1 to 12/31, 152,300 acre-feet streamflow maintenance from storage from 1/1 to 12/31, and 28,800 acre-feet storage for recreation from 1/1 to 12/31, for a total of 293,050 acre-feet.

The permit holder now proposes to amend the permit by allowing 32,500 acre-feet of streamflow maintenance water to be used for irrigation of lands served under existing storage water contracts in the Boise River system during the 1990 season. This temporary amendment is intended to expire as soon as the streamflow maintenance water is repaid prior to the 1991 irrigation season.

Any protests against the approval of the proposed amendment must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 on or before August 6, 1990. If protests are received, a hearing will be scheduled to be held on August 10, 1990. Copies of the Application of Amendment and associated explanatory documents are available upon request.

R. KEITH HIGGINSON
Director
July 18, 25, 1990

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DEC 11 1990

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR THE AMENDMENT OF PERMIT NO. 63-3618 IN THE NAME OF THE UNITED STATES OF AMERICA, BUREAU OF RECLAMATION	MEMORANDUM DECISION AND ORDER GRANTING AMENDMENT TO PERMIT DATED JUNE 5, 1987

This Memorandum Decision and Order is prepared in compliance with a stipulation resolving protests to a previous application for amendment filed for Permit No. 63-3618.

The Director, based upon his understanding of the law and the information contained in the records of the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. Permit No. 63-3618 was amended on February 14, 1985, to change 102,300 acre feet of storage space from irrigation to streamflow maintenance purpose.

2. The applicant proposes in this application for amendment to change the allocation of 25,905 acre feet of storage space in Lucky Peak Reservoir from streamflow maintenance purpose to irrigation purpose.

3. The application was filed by the applicant pursuant to a stipulation between the Bureau of Reclamation (hereafter referred to as "Bureau"), the Boise Project Board of Control, and other irrigation organizations (hereafter referred to as "parties"). The stipulation implicitly incorporates into its text a previous agreement between the Bureau of Reclamation and the Boise Project Board of Control. The contract states that no streamflow

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maintenance water will be made available to provide irrigation carry over for the 1988 season. That contract also requires the repayment of the water used for irrigation.

4. Permit No. 63-3618 was amended on May 20, 1987, to temporarily change 44,700 acre feet of storage space in Lucky Peak Reservoir from streamflow maintenance purpose to irrigation purpose.

5. The Department imposed the following conditions to the May 20, 1987 amendment:

> 2. The 44,700 acre feet must be allocated based on need to those who do not have an adequate water supply from other sources including hold over storage from prior years.
>
> 3. Spaceholders who have sold, rented, bartered, or otherwise conveyed water since last irrigation season shall not be eligible to utilize reallocated water.
>
> 4. The allocation change approved by this order shall revert to streamflow maintenance after the 1987 irrigation season.

6. In reviewing this Application for Amendment, Dave Tuthill of the Department of Water Resources, asked Carl Padour, Manager, Boise Project Board of Control, about compliance with condition 2, requiring specific distribution to users on the basis of need, and condition 3, requiring denial of use to those who had sold, rented, bartered, or otherwise conveyed water during the last year.

7. Mr. Padour stated that no water had been sold or conveyed from one district (party) to another. He also stated that the districts (parties) had resolved that each needed the water equally, and that the water should be prorated to the

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districts (parties) based on the respective acreage irrigated. The users did not pay additional excess storage costs for the water delivered to them.

8. The Department informed the Bureau that the previous scheme for distribution did not address the needs of individual users, and that prior to approving the change for an additional 25,905 acre feet from streamflow maintenance to irrigation, the Bureau must propose a plan for allocation of the stored water on the basis of need.

9. The Bureau represented to the Department during a meeting on August 4, 1987, that, before any water will be delivered under the present amendment, a party needing additional storage must identify and be willing to pay for the portion of the 25,905 acre feet that is needed to complete the irrigation season.

10. The Bureau also stated that after quantification of water needed by the parties, requests may exceed 25,905 acre feet.

11. Should requests exceed 25,905 acre feet, storage available to each party will be determined by means of a plan of distribution to be prepared by the Bureau. A party must contract with the Bureau for the entire quantity requested, up to the amount available to that party.

12. Parties requesting additional storage will pay operation and maintenance costs for the entire amount of water contracted for whether the water is diverted or not.

13. The proposed amendment will reduce the amount of storage

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MAR 10 1988

remaining in the reservoir at the end of the irrigation season which will cause a decrease in the lake level.

14. The applicant will still be able to release a minimum flow of 80 cubic feet per second in the Boise River which when combined with storage available to the Idaho Department of Fish and Game will provide that a 150 cubic feet per second flow rate will be maintained during the non-irrigation season of 1987-1988.

15. The provisions in the June 26, 1986, contract between the applicant and the Boise Project Board of Control providing for repayment of water temporarily allocated to irrigation under the prior amendment approved May 20, 1987, will allow the minimum stream flow to be maintained during the 1988-1989 non-irrigation season.

CONCLUSIONS OF LAW

1. The issues to be considered in this application for amendment are similar to the issues raised in the previous amendment approved by the Department on May 20, 1987.

2. The Bureau has provided an acceptable plan for supplying water on the basis of need. The plan requires that the parties requesting water must pay an additional fee for excess stored water for all the water for which the parties contract. Payment for all contracted water rather than payment for only the water used will force the parties to more carefully assess their individual needs.

3. The Bureau must propose a plan of allocation for the 25,905 acre feet between the parties should requests exceed the volume available under the Bureau's application for amendment

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MAR 10 1988

which the plan must be approved by the department.

4. To avoid an unnecessary adverse impact on the lake levels and interference with the local public interest, the 25,905 acre feet of water must be used only on land that does not have an adequate water supply from other sources including hold over storage from prior years.

5. This change in allocation from streamflow maintenance to irrigation shall only occur during the 1987 irrigation season and following the irrigation season the 25,905 acre feet of storage shall revert to streamflow maintenance.

ORDER

Therefore the amendment filed on June 5, 1987 on Permit No. 63-3618 is hereby APPROVED with the following conditions:

1. The 25,905 acre feet must be allocated based on need to those who do not have an adequate water supply from other sources including hold over storage from prior years.

2. To insure that condition No. 2 is complied with, the Bureau required by letter request dated July 2, 1987, that the parties desiring water to request in writing and be willing to pay for the additional storage needed and justification for the request.

3. If written requests exceed 25,905 acre feet, the Bureau shall submit a plan to the Department for allocation of the limited storage to the parties. The Department reserves the right to approve or disapprove the plan. The criteria for approval or disapproval is whether the plan proposes allocation on the basis of need.

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MAR 10 1988

4. After the plan is accepted by the Department, the parties must pay operation and maintenance costs for all the water contracted for.

5. Spaceholders who have sold, rented, bartered, or otherwise conveyed water since last irrigation season shall not be eligible to utilize reallocated water.

6. The allocation change approved by this order shall revert to streamflow maintenance after the 1987 irrigation season.

Signed this 13TH day of August, 1987.

NORMAN C. YOUNG, Director
Department of Water Resources

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MAR 10 1988

CERTIFICATE OF MAILING

I hereby certify that on the 19th day of August, 1987, I mailed a true and copy of the Memorandum Decision and Order Granting Amendment to Permit by U.S. mail, postage prepaid to: Bureau of Reclamation, 214 Broadway Avenue, Boise, ID 83702.

Jane L. Fox

JANE L. FOX, Receptionist

FILMED
MAR 10 1988

Form 211
5/78

Ident. No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES APPROVED

APPLICATION FOR AMENDMENT OF A PERMIT

To change the point of diversion and/or the place of use.

Comes now The United States of America acting through the Regional Director, Pacific Northwest Region, Bureau of Reclamation

of (address) Box 043-550 West Fort Street, Boise, ID 83724, and represents to the Director of the Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. R-1183/63-3618, and requests that the permit and permit map be changed as follows:

1. Point of diversion: SE ¼ NE ¼, Section 11, Township 2N, Range 3E, B.M., County of Ada. Other points of diversion: Secondary diversions from the Boise River at various points downstream from Lucky Peak Reservoir.

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)

Amount (acre-feet)	Use	Period: From	To
111,950	Storage for Irrigation	Jan. 1	Dec. 31
111,950	Irrigation from Storage	Mar. 15	Nov. 15
152,300	Storage for Streamflow Maintenance	Jan. 1	Dec. 31
152,300	Streamflow Maintenance from Storage	Jan. 1	Dec. 31
28,800	Storage for Recreation	Jan. 1	Dec. 31

Total of 293,050 acre feet

TWP	RGE	SEC	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Supplemental irrigation of cultivated lands of the Boise Federal Reclamation Project Ada and Canyon counties.
Streamflow maintenance in the channel of the Boise River below Lucky Peak Reservoir. Lucky Peak Reservoir storage pool maintenance for Recreation.

Total number of acres to be irrigated = 164,920

4. a. Who owns the property at the point of diversion? United States of America

   b. Who owns the land to be irrigated or the place of use? Various Water Users

   c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Administrator of Federal Reclamation Project.

MICROFILMED

MAR 10 1988

Complete the following map by showing land and point of diversion as proposed by this amendment.

Show 40-acre subdivisions, townships, ranges and ditches.

DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. General information

a. The amount of water for which the purpose of use may be modified is 44,700 acre-feet.

b. Storage water is to be released from Lucky Peak Reservoir.

c. The reasons for the proposed changes is to provide a water supply to the users of the Boise Board of Control to offset shortages due to evacuation of Lucky Peak Reservoir during power plant construction.

2. Change

a. This amendment is not intended to permanently alter the distribution of uses for storage waters in Lucky Peak Reservoir. Instead, this amendment will authorize, (1) use of up to 44,700 acre-feet of streamflow maintenance water for irrigation of Boise Project Board of Control (BPBOC lands in the 1987 season; and (2) use of up to 57,600 acre-feet of BPBOC irrigation storage to guarantee streamflow maintenance capacity through April 15, 1990.

6. This amendment is intended to be subject to the agreements and stipulations outlined in (1) the contract letter to Mr. Carl Padour, Manager of the Boise Project Board of Control from Mr. Neil Stessman, Project Superintendent of the U.S. Bureau of Reclamation Central Snake Projects Office dated June 26, 1986, and (2) the cover letter submitted with this application.

Scale: 2 inches equal 1 mile.

That no one will be injured by such change, and that such change will be made at permit holder's own risk.

Signed at _____, this 11th day of March, 1987.

John W. Keys, III
(Signature)

REGIONAL DIRECTOR

FOR DEPARTMENT USE ONLY

Preliminary check by jp Fee = $20.00

VOUCHER CONTRACT NO. 7-07-10-W0632
Receipted by jp Date 5/19/87 #44851

Publication prepared by jp Date 3/12/87

Published in The Idaho Statesman

Publication dates 3/19 & 3/26/87

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

I, A. Kenneth Dunn, Director of the Department of Water Resources hereby APPROVE this amendment subject to the conditions of the Memorandum Decision and Order dated May 20, 1987.

FILMED

MAR 10 1988

Witness my hand this 20th day of May, 1987.

A. Kenneth Dunn
Director

The Idaho Statesman

P O BOX 40, BOISE, IDAHO 83707

LEGAL ADVERTISING INVOICE

Amount Due: 52.39

Account Name	Account Number
Idaho Department of Water Resources (Western)	#47628

Address	City/State	Zip
Statehouse	Boise, ID	83720

Ordered By	P.O. Number	Rate	Run Dates
Judy Pense		NT	1987 June 19, 25

Identification	Estimated Inches	Real Inches
Notice of Application for Amendment		

Legal Number: #5668

[1] Number of Affidavits Requested

NOTICE OF APPLICATION FOR AMENDMENT

Notice is hereby given that Permit No. 63-3618 in the name of the United States Bureau of Reclamation was filed on 4/12/1963 for the diversion of 307,000 acre-feet from the Boise River with a point of diversion at Lucky Peak Dam within the SE¼ NE¼, Sec. 11, T. 2N., R. 3E., to be used for irrigation within the irrigation system of the Boise Valley.

On 2/14/1985 the permit was amended to change the nature of use to describe 111,950 acre-feet storage for irrigation from 1/1 to 12/31, 111,950 acre-feet irrigation from storage from 3/15 to 11/15, 152,300 acre-feet storage for streamflow maintenance from 1/1 to 12/31, 152,300 acre-feet streamflow maintenance from storage from 1/1 to 12/31, and 28,800 acre-feet storage for recreation from 1/1 to 12/31, for a total of 293,050 acre-feet.

On May 20, 1987 the permit was amended to allow up to 44,700 acre-feet of streamflow maintenance water to be used for irrigation of Boise Project Board of Control lands during the 1987 irrigation season, subject to a specified repayment schedule.

The permit holder now proposes to amend the permit by allowing an additional 25,905 acre-feet of streamflow maintenance water to be used for irrigation of lands served under existing storage water contracts in the Boise River system during the 1987 season. Distribution of irrigation water made available upon approval of this application would be carried out according to a stipulation dated May 14, 1987.

Any protest against the approval of the proposed amendment must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 on or before July 6, 1987. If protests are received, a hearing will be scheduled to be held on July 17, 1987. Copies of the Application for Amendment and associated explanatory documents are available upon request.

A. KENNETH DUNN
Director

Pub. June 19, 25, 1987 5668

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

Julie Day, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto; that said notice was published in The Idaho Statesman in conformity with Section 60-108, Idaho Code as amended, for two ☐ consecutive weekly ☐ consecutive daily ☐ single ☒ odd skip insertion(s) beginning with the issue of June 19, 1987 and ending with the issue of June 25, 1987

Julie Day

Subscribed and sworn to before me this 25th day of June, 1987

RECEIVED MAR 10 1988

Connie Blackburn 8/92

Notary Public for Idaho, Residing at Boise, Idaho

BEFORE THE DIRECTOR OF THE DEPARTMENT OF
WATER RESOURCES

IN THE MATTER OF APPLICATION FOR)
THE AMENDMENT OF PERMIT NO. 63-3618) Source: Boise River
INTHE NAME OF THE UNITED STATES OF) County: Ada
AMERICA, BUREAU OF RECLAMATION)

This memorandum decision and order is prepared following the resolution of the protests by a stipulated agreement between the applicant the protestant and the intervenors.

The Director, based upon his understanding of the law and the information contained in the records of the department finds concludes and orders as follows.

FINDINGS OF FACT

1. The applicant proposes by this application to change the allocation of 44,700 acre feet of storage space in Lucky Peak Reservoir from streamflow maintenance purpose to irrigation purpose.

2. This permit was amended on February 14, 1985 to change 102,300 acre feet of storage space from irrigation to streamflow maintenance purpose.

3. The application before the Director of The Dapartment of Water Resources was filed by the applicant after a contract was reached with the Boise Project Board of Control. That contract states that no streamflow maintenance water will be made available to provide irrigation carry over for the 1988 season. That contract also requires the repayment of the water used for irrigation.

4. The proposed amendment will reduce the amount of storage remaining in the reservoir at the end of the irrigation season which will cause a decrease in the lake level.

5. The applicant will still be able to release a minimum flow of 80 cubic feet per second in the Boise River which when combined with storage available to the Idaho Department of Fish and Game will provide that a 150 cubic feet per second flow rate will be maintained during the non-irrigation season of 1987-1988.

6.The provisions in the June 26, 1986 contract between the applicant and the Boise Project Board of Control providing for repayment of the water will allow the minimum stream flow to be maintained during the 1988-1989 non-irrigation season.

APPROVED
MAR 10 1988

CONCLUSIONS OF LAW

1. To avoid an unecessary adverse impact on the lake levels and thus interference with the local public interest the 44,700 acre feet of water must be used only on land that does not have an adequate water supply from other sources including hold over storage from prior years

2. This change inallocation from streamflow maintenance to irrigation shall only occur during the 1987 irrigation season and following the irrigation season the 44,700 acre feet of storage shall revert to streamflow maintenance.

3. The water used under this amendment will be repaid to storage for streamflow maintenance according to the June 26, 1986 agreement between the applicant and the Boise Project Board of Control.

ORDER

Therefore the amendment filed on March 12, 1987 on Permit No. 63-3618 is hereby APPROVED with the following conditions:
1. The conditions set forth by the agreement of June 26, 1986.
2. The 44,700 acre feet must be allocated based on need to those who do not have an adequate water supply from other sources including hold over storage from prior years.
3. Spaceholders who have sold, rented, bartered or otherwise conveyed water since last irrigation season shall not be eligible to utilize reallocated water.
4. The allocation change approved by this order shall revert to streamflow maintenance after the 1987 irrigation season.

Signed this 20th day of May 1987

A. Kenneth Dunn, Director

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MAR 10 1988

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR AMENDMENT OF PERMIT NO. 63-3618 IN THE NAME OF THE UNITED STATES OF AMERICA, BUREAU OF RECLAMATION	CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this the 22nd day of May, 1987 a true and correct copy of the foregoing MEMORANDUM DECISION AND ORDER was mailed, postage prepaid to:

Regional Director, Pacific Northwest Region,
Bureau of Reclamation
Box 043-550 W. Fort St.
Boise, ID 83724

Scott Campbell
ELAM, BURKE AND BOYD
P. O. Box 1559
Boise, ID 83701

Rita O. Fleck

RITA I. FLECK
Secretary/Records Manager
Idaho Department of Water Resources

MICROFILMED

MAR 10 1988

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR AMENDMENT OF A PERMIT

To change the point of diversion and/or the place of use.

Comes now The United States of America acting through the Regional Director, Pacific Northwest Region, Bureau of Reclamation

of (address) Box 043-550 West Fort Street, Boise, ID 83724, and represents to the Director of the Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. R-1183/63-3618, and requests that the permit and permit map be changed as follows:

1. Point of diversion: SE ¼ NE ¼, Section 11, Township 2N, Range 3E, B.M., County of Ada. Other points of diversion: Secondary diversions from the Boise River at various points downstream from Lucky Peak Reservoir.

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)

Amount (acre-feet)	Use	Period: From	To
111,950	Storage for Irrigation	Jan. 1	Dec. 31
111,950	Irrigation from Storage	Mar. 15	Nov. 15
152,300	Storage for Streamflow Maintenance	Jan. 1	Dec. 31
152,300	Streamflow Maintenance from Storage	Jan. 1	Dec. 31
28,800	Storage for Recreation	Jan. 1	Dec. 31

Total of 293,050 acre feet

TWP	RGE	SEC	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Supplemental irrigation of cultivated lands of the Boise Federal Reclamation Project Ada and Canyon counties.
Streamflow maintenance in the channel of the Boise River below Lucky Peak Reservoir. Lucky Peak Reservoir storage pool maintenance for Recreation.

Total number of acres to be irrigated - 277,000

4. a. Who owns the property at the point of diversion? United States of America

b. Who owns the land to be irrigated or the place of use? Various Water Users

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Administrator of Federal Reclamation Project.

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MAR 10 1988

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JUN 9 1987
Department of Water Resources
Western Regional Office

Complete the following map by showing land and point of diversion as proposed by this amendment.

Show 40 acre subdivisions, townships, ranges and ditches.

DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. General information

   a. The amount of water for which the purpose of use may be modified is 25,905 acre-feet.

   b. Storage water is to be released from Lucky Peak Reservoir.

   c. The reasons for the proposed change is to provide an emergency supplemental irrigation water supply to entities with existing storage water contracts in the Boise River system.

2. Change

   a. This amendment is not intended to permanently alter the distribution of uses for storage waters in Lucky Peak Reservoir. Instead, this amendment will authorize use of up to 25,905 acre-feet of streamflow maintenance water for irrigation lands served under existing storage water contracts in the Boise River system during the 1987 season.

   b. Distribution of irrigation water made available upon approval of this application will be carried out generally according to the plan set forth in the stipulation for withdrawal of protest lodged with the Department of Water Resources on May 14, 1987, a copy of which is attached hereto and incorporated herein by reference. That stipulation concerned the Bureau's March 12, 1987, application to change the nature of use of 44,700 acre feet of Lucky Peak Reservoir storage water from streamflow maintenance to irrigation.

2 inches equal 1 mile.

That no one will be injured by such change, and that such change will be made at permit holder's own risk.

Signed at Boise, Idaho, this 5th day of June 1987.

John W. Keys, III
(Signature)

Regional Director

Voucher No. 7-07-10-W0678 **FOR DEPARTMENT USE ONLY**

Preliminary check by DET Fee = $20.00 Receipted by [illegible] Date 8-11-87 #44412

Publication prepared by JP Date 6/6/87 Published in Idaho Statesman

Publication dates June 19, 25, 1987

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

I, Norman C. Young, Acting, Director of the Department of Water Resources hereby APPROVE the application for Amendment of Permit subject to the Memorandum Decision and Order.

MICROFILMED
MAR 10 1988

Witness my hand this 13th day of August, 19 87.

Norman C. Young
Acting Director

ELAM, BURKE AND BOYD
ATTORNEYS AND COUNSELORS AT LAW

FIRST INTERSTATE BUILDING
702 WEST IDAHO
POST OFFICE BOX 1559
BOISE, IDAHO 83701
TELEPHONE 208-343-5454
TELECOPIER 208-343-5454

LAUREL E. ELAM (1888-1974)
CARL A. BURKE (1898-1961)
CARL P. BURKE
PETER J. BOYD
J. RAY DURTSCHI
M. ALLYN DINGEL, JR.
JACK S. GJORDING
JOHN MAGEL
DAVID B. LINCOLN
RICHARD C. MELLON, JR.
ROBERT M. TYLER, JR.
JAMES D. LaRUE
RANDALL A. PETERMAN
WILLIAM J. RUSSELL
KAYE L. O'RIORDAN
RYAN P. ARMBRUSTER
DAVID E. COMSTOCK
MELVILLE W. FISHER II
WILLIAM G. DRYDEN
TODD J. WILCOX
PETER C. K. MARSHALL
KENNETH M. SEBBY
TRUDY HANSON FOUSER
D. ALAN KOFOED
SCOTT L. CAMPBELL
BOBBI KILLIAN DOMINICK
W. DALLAS BURKHALTER
ALAN CONILOGUE
ELAINE D. HANSON
JEFFERY J. VENTRELLA
BRENDA G. MEIER
JOHN J. JANIS
WENDY E.D. SMITH*
*PENN. & D.C. BARS ONLY

April 6, 1987

RECEIVED
APR 6 1987
Hand-Delivered
Department of Water Resources
Western Regional Office

VIA HAND DELIVERY

David R. Tuthill, Jr., P.E.
Western Region Manager
Department of Water Resources
State of Idaho
2735 Airport Way
Boise, ID 83705

Re: Application for Amendment of Water Permit No. 63-3618
In the Name of the United States Bureau of Reclamation

Dear David:

I have enclosed for filing with the Department an original and one copy of a Protest against the Application for Amendment of Water Permit No. 63-3618.

I have also enclosed a copy of a cover letter which was sent to Mr. Donald Smitchger, President of Settlers Irrigation District, and received by the District office on April 3, 1987. As you can see, this correspondence indicates that the written protest against the application must be received by your office by April 20, 1987. Upon a review of one of the enclosures with this correspondence, Mr. Smitchger discovered that the Notice of Application for Amendment required that protests be filed on or before April 6, 1987. Mr. Smitchger confirmed this latter date with Mr. Ervin Ballou during a telephone conversation on April 3, 1987.

Because of the limitations placed upon my ability to gather information relative to this protest caused by the miscommunication with respect to the protest deadline, I respectfully reserve the right to amend the enclosed Protest and add additional protestants at a later time. The severe time limitations have prevented me from contacting other water user organizations which

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MAR 10 1988

may wish to formally protest this Application for Amendment on substantially similar grounds as the existing protestants.

I appreciate your understanding in this regard.

Very truly yours,

ELAM, BURKE AND BOYD

Scott L. Campbell

SLC:ls
Enclosures

FILMED
MAR 10 1988

RECEIVED
APR 6 1987
Department of Water Resources
Western Regional Office

Peter J. Boyd
Scott L. Campbell
ELAM, BURKE AND BOYD
1010 First Interstate Building
P.O. Box 1559
Boise, Idaho 83701
(208) 343-5454

Attorneys for Protestants

BEFORE THE DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

IN THE MATTER OF THE APPLICATION FOR AMENDMENT OF PERMIT NO. 63-3618, IN THE NAME OF THE UNITED STATES BUREAU OF RECLAMATION	)	PROTEST

COMES NOW, Settlers Irrigation District and Pioneer Irrigation District, by and through their counsel, Scott L. Campbell, and hereby protest the Application for Amendment of Permit No. 63-3618, heretofore filed by the United States Bureau of Reclamation to change the nature of use of 44,700 acre-feet of stored water in Lucky Peak Reservoir.

Each of the protestants herein possess water storage rights in Lucky Peak Reservoir, pursuant to contracts with the United States Department of the Interior, Bureau of Reclamation.

Settlers Irrigation District, Pioneer Irrigation District, and Farmers Union Ditch Company possess natural flow-of-the-river water rights in the Boise River, pursuant to Farmers Co-op v. Riverside Irrigation District, 14 Idaho 450 (1908), which decision is commonly referred to as the Stewart Decree.

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MAR 10 1988

Protestants believe that the terms of the proposed Amendment of Permit No. 63-3618 may adversely affect the water storage rights of the protestants in Lucky Peak Reservoir.

Protestants further believe that the reasons for the proposed change, as stated in the Application for Amendment of Permit No. 63-3618, which is to "provide a water supply to the users of the Boise Board of Control to offset shortages due to evacuation of Lucky Peak Reservoir during power plant construction," is an improper basis for granting such a change in the nature of use of the water.

Protestants also believe that the modification of the nature of use of 44,700 acre-feet of stored water from streamflow maintenance purposes to irrigation purposes in order to supply water to the users of the Boise Board of Control and not to the protestants or other similarly situated water users constitutes an unjust, preferential treatment of one group of water users to the detriment of the protestants and other similarly situated users of Boise River water.

In this regard, protestants assert that if the 44,700 acre-feet of streamflow maintenance water is changed to irrigation use for the Boise Project Board of Control, a like amount should be changed to irrigation use and be made available to protestants and other similarly situated water users who may desire to contract with the United States Bureau of Reclamation for such additional water during the 1987 irrigation season. This is

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MAR 10 1988

particularly significant in view of the below normal precipitation accumulations in the Boise River drainage during the period of October 1986 through April 1987.

Protestants respectfully request that a hearing be scheduled before the Department of Water Resources to consider these and other objections to the Application for Amendment of Permit No. 63-3618.

DATED This 6th day of April, 1987.

ELAM, BURKE & BOYD

By Scott L. Campbell
Scott L. Campbell, Of the Firm
Attorneys for Protesters

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this 6th day of April, 1987, I caused a true and correct copy of the above and foregoing instrument to be mailed, postage prepaid, to:

John W. Keys, III
Regional Director
Pacific Northwest Region
Bureau of Reclamation
Box 043, 550 W. Fort St.
Boise, ID 83724

Scott L. Campbell

FILMED

MAR 10 1988

RECEIVED
MAR 27 1987

The Idaho Statesman

P.O. BOX 40, BOISE, IDAHO 83707

LEGAL ADVERTISING INVOICE

Amount Due
60.93

Account Name	Account Number
~~Department of Water Resources~~ ID. Dept. Water Resources	#47628

Address	City/State	Zip
Statehouse	Boise, ID	83720

Ordered By	P.O. Number	Rate	Run Dates
Judy Pense		nt	1987 Mar. 19, 26

Identification	Estimated Inches	Real Inches
Application for Amendment		

Legal Number #4776

[1] Number of Affidavits Requested

NOTICE OF APPLICATION FOR AMENDMENT

Notice is hereby given that Permit No. 63-3618 in the name of the United States Bureau of Reclamation was filed on 4/12/1963 for the diversion of 307,000 acre feet from the Boise River with a point of diversion at Lucky Peak Dam within the SE¼ NE¼, Sec. 11, T. 2N., R. 3E., to be used for storage for irrigation from 1/1 to 12/31 and irrigation from storage from 4/15 to 10/15 within the irrigation system of the Boise Valley.

On 2/14/1985 the permit was amended to change the nature of use to describe 111,950 acre feet storage for irrigation from 1/1 to 12/31, 111,950 acre feet irrigation from storage from 4/15 to 10/15, 152,300 acre feet storage for streamflow maintenance from 1/1 to 12/31, 152,300 acre feet streamflow maintenance from storage from 1/1 to 12/31, and 28,800 acre feet storage for recreation from 1/1 to 12/31, for a total of 293,050 acre feet.

The permit holder now proposes to amend the permit by allowing (1) use of up to 44,700 acre feet of streamflow maintenance water for irrigation of Boise Project Board of Control (BPBOC) lands in the 1987 season; and (2) use of up to 57,600 acre feet of BPBOC irrigation storage to guarantee streamflow maintenance capacity through April 15, 1990. To the extent the system does not resale by that time.

Information submitted with the application for amendment describes that as consideration for making water from the streamflow maintenance account available to the BPBOC, the BPBOC will transfer to the Bureau of Reclamation's streamflow maintenance account a volume of water in addition to the quantity borrowed in the event and to the extent that there exists a shortage in the bureau of Reclamation's account necessary to permit releases of 80 cubic feet per second from October 15, 1989 to April 15, 1990, to a maximum of 12,900 acre feet in excess of the amount borrowed.

Any protest against the approval of the proposed amendment must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83709 on or before April 6, 1987. Copies of the Application for Amendment and associated explanatory documents are available upon request.

A. KENNETH DUNN
Director

Pub. Mar. 19, 26, 1987 4776

RECEIVED
MAR 31 1987
Department of Water Resources
Western Regional Office

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

Deborah Gregory, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto; that said notice was published in The Idaho Statesman in conformity with Section 60-108, Idaho Code as amended, for Two (2)
☒ consecutive weekly ☐ consecutive daily ☐ single ☐ odd skip

insertion(s) beginning with the issue of March 19, 19 87

and ending with the issue of March 26, 19 87

Deborah Gregory

FILMED
MAR 10 1988

Subscribed and sworn to before me this 26th

day of March 19 87

4/1991 Jeanne M Hauk
Notary Public for Idaho, Residing at Boise, Idaho

Notes by D. Tuthill

Meeting on 1/5/1994.

1. Intro - see sign in

2. Water rt permit
   a. Steve Lester's document
   b. We have potential to add conditions

3. a. Only written documentation is 3/8/1981 letter from BOR Regional Director (see attached.
   b. Fall meeting w/ IDFG & BOR

D12

Attendance Roster
1/5/94 Meeting Re: Boise R. Storage

Name	Representing
RICK WELLS	BOR
Jerry Gregg	BOR
Lee Sisco	Water Dist #3
LORI Postlethwait	BOR
Cindy Robertson	IDFG
STEVE GODDARD	IDFish + Game.
Steve Lester	IDWR
Frank Sherman	IDWR - State Office
John Beal	IDWR - State Office

LUCKY PEAK RESERVOIR
SUMMARY OF WATER RIGHTS
STEVE LESTER IDWR 12-30-93

for 1/5/94 meeting w/
- BOR
- IDF&G
- WATERMASTER
- IDWR (ORT & SL)

RESERVOIR CAPACITY

* IDWR Dam Safety file no. D63-3618	307,000 af	(known)
* BOR's SRBA Claims (reservoir + bank storage)	324,000 af	(claimed)

WATER RIGHTS INCLUDING SRBA CLAIMS

* **Statutory Claim 63-05263** with 1-1-1955 priority

Irrigation Storage	1-1 to 12-31	17,000 af
Irrig. from Storage	3-15 to 11-15	17,000 af
Total amount		17,000 af

* **SRBA Claim A63-05263** to protect statutory claim

Same as above but remarks show bank storage added to reservoir storage for total capacity of 324,000 af. Validity of bank storage to be determined in SRBA. Since amount claimed is water in addition to Permit 63-03618 water, claim does not pose significant problems in licensing permit.

* **Permit 63-03618** with 4-12-1963 priority

Irrigation Storage	1-1 to 12-31	111,950 af
Irrig. from Storage	3-15 to 11-15	111,950 af
Wildlife Storage	1-1 to 12-31	152,300 af
Wildl. from Storage	1-1 to 12-31	152,300 af
Recreation Storage	1-1 to 12-31	28,800 af
Total amount		307,000 af

(note that sum of three storage amounts is 293,050 af)

* **SRBA Claim A63-03618** to protect permit

Irrigation Storage	1-1 to 12-31	140,750 af
Irrig. from Storage	3-15 to 11-15	140,750 af
Minimum Instream Flow Storage	1-1 to 12-31	152,300 af
Minimum Instream Flow from Storage	1-1 to 12-31	152,300 af
Flood Control Storage	1-1 to 12-31	13,950 af
Total amount		307,000 af

(same remarks in Claim A63-05263; note sum is 307,000 af)

LICENSING PERMIT 63-03618

* Proof of beneficial use filed 9-22-1986 for 310,050 af to service 277,000 acres (acres per 1990 Amendment).

* Field examination conducted 10-27-1993, in-office completion to follow.

* Known information: source, point of diversion, type of diversion works, periods of storage & use from storage, total annual amount of water released, generalized place of use.

* To be determined: amount of water per beneficial use based on BOR contracts in combination with water right limitations, specific number of acres and place of use for irrigation if needed (perhaps not per Beneficial Use Rules & Regs.).

* Reconcile differences between Permit 63-03618 and SRBA Claim A63-03618:

    * beneficial uses and amount of water per use (and acres if needed where permit file shows 277,000 and claim lists 224,886).
    Acres in project Acres served by contract

    * total amount of water that can be released from storage:

Permit - use from storage	111,950 af	— Irrigation
	+ 152,300 af	— Recreation
total	264,250 af	— per contract for released water
(subject to change in licensing)		
Claim - use from storage	140,750 af[1]	
	+ 152,300 af	13,950 ∫bod contra
total	293,050 af	
but remark about "joint use"	278,200 af	

Note that difference in amount released from storage per claim and permit is amount shown as inactive capacity in claim remarks and as recreation storage in permit:

	293,050 af
-	264,250 af
	28,800 af

1. Claim shows 224,886 acres under Boise Project using 140,750 af for irrigation.

Note that difference in amount of sums of storage per claim and permit is amount shown as flood control storage in claim:

307,000 af
- 293,050 af
13,950 af

Question: what is total sum of storage and total amount released <u>from</u> storage for licensing purposes?

* Overlapping rights:

  * 63-05263 (A63-05263) will be determined in SRBA.

  * Permits 63-09019 and 63-11069, both for power production by releasing storage water from Lucky Peak. Field exams conducted on same day as 63-03618 and licensing in progress. These power rights do not allow demand for or release of water except within previously existing rights (secondary use of water). SRBA claims are not applicable (proof of b.u. filed after adjudication started).

  * No significant overlap issues except the total reservoir capacity referenced by addition of bank storage (63-05363).

* Recommended action for licensing:

  * Evaluate storage amounts per BOR contracts.

  * Determine place of use for non-irrigation uses* (basically, will be river reach below Lucky Peak).

  * Defer question of number and location (by T-R-S-QQ) of irrigated acres to SRBA review in next few years.

  * Issue license prior to SRBA review based on above and any other pertinent material collected.

* streamflow maint. flows will act similar to min. instream flow in winter

D16

United States Department of the Interior
WATER AND POWER RESOURCES SERVICE
PACIFIC NORTHWEST REGION
FEDERAL BUILDING & U.S. COURTHOUSE
BOX 043-550 WEST FORT STREET
BOISE, IDAHO 83724

IN REPLY REFER TO: PN 769
511.

MAR 6 1981

Memorandum

To: Project Superintendent, CSPO, Boise, Idaho

From: Regional Planning Officer, Boise, Idaho

Subject: River Flow Releases Below Anderson Ranch Dam--
South Fork Boise River

Your memorandum dated December 24, 1980, to the Chief, Anderson Ranch Field Station on the above subject outlines some proposed changes in powerplant operation as an outcome of our Anderson Ranch Powerplant Third Unit feasibility study. The contents of your letter, and recent discussions which we have had with Dennis Christenson, the powerplant supervisor, indicate to us that we need to further clarify the intention of the proposed operation.

1. Minimum streamflows. Your letter is correct in the interpretation of minimum streamflow recommendations of 600 ft^3/s April 1 through September 15 and 300 ft^3/s September 16 through March 31. These flows should be provided except during unusually dry years, when they may be reduced.

In the case of a load rejection or other unexpected drop in discharge below the minimum flows, load should be restored as quickly as possible, or, if it appears that the condition cannot be quickly corrected, minimum discharges should be provided by operation of either the spillway or the hollow jet valves.

It is understood that during the winter the jet valves are drained to prevent freezing and that it may require up to an hour for a mechanic to replace the drain plug before a valve can be pressurized and then opened. A high priority should be assigned to maintaining minimum flows in the river and all reasonable means should be utilized as quickly as possible to restore flow after an unexpected loss of load.

2. Rate of rise. The rate of increase in load during winter load following operations should be limited to a maximum of 4 to 5 MW per hour, as has been done in the past. This is roughly equivalent to an average rise in the river of 35 ft^3/s per 10 minutes.

D17

Boise River System Operation

1. Improve Boise River Flows

The flow maintenance space of 102,300 acre-feet would be used to maintain an 80 ft^3/s minimum Lucky Peak Lake release to the Boise River, and the Idaho Department of Fish and Game would use its existing space (50,000 acre-feet) to provide an additional 70 ft^3/s, producing the total desired minimum flow of 150 ft^3/s. If the full 150 ft^3/s Lucky Peak Lake flow release could not be maintained, the 80 ft^3/s flow release would be provided whenever water is available. If water supplies were not available in the noncontracted space to make the 80 ft^3/s river release, the Department of Fish and Game could choose to use its water supplies to maintain all or a part of the 80 ft^3/s river release. If adequate water supplies were available, the Department of Fish and Game would have the option of using its water to meet other fish flow needs, such as the 225 ft^3/s flow release needed during October and November for brown trout spawning.

2. Arrowrock Reservoir Minimum Pool

Whenever possible, maintain a minimum pool in Arrowrock Reservoir of about 28,700 acre-feet to preserve the resident trout fishery resource. This constraint has a high priority and should be violated only in case of a drought, unusual maintenance needs, or in anticipation of extremely large flood events requiring drafting to provide space to control the flood.

3. Lucky Peak Lake Recreation Water Levels

When flood control constraints and other factors permit, Lucky Peak Lake will be filled to water surface elevation 3032 feet as early in the spring as practical. This would benefit the boating public by improving access to launch ramps, the floating facilities at Spring Shores Marina, and other recreation facilities.

4. Lucky Peak Lake Storage Space Assignments

Irrigation	111,950 acre-feet
Streamflow maintenance	152,350
a. Idaho Department of Fish and Game	(50,000)
b. Noncontracted	(102,350)
Exclusive flood control (reservoir elevation 3055 to 3060 feet)	13,900
Unusable (dead) storage	28,800
Total	307,000 acre-feet

The reference to "ft^3/s per 10 minutes" began a few years ago during monitoring of the stream's hydraulic properties and was used for the convenience of observers who were more likely to have an understanding of ft^3/s than MW. It was not meant to imply that loadings at the powerplant should be changed in 10 minute increments. In fact, there are several reasons why loads cannot be changed in 10 minute increments:

a. BPA load scheduling is on an hourly basis. More frequent changes may not be marketable.

b. A rapid increase of about 70 ft^3/s in a matter of seconds is required just to start up a turbine.

c. Generation can't be monitored in the powerhouse with more precision than about 1/2 MW, making fractional changes such as .67 MW per 10 minutes impractical.

d. Manpower needs would be increased if one man were needed solely to make the near-continuous load changes. Load reporting procedures would be much more complex.

The intention of the rate of rise limitation of 35 ft^3/s per 10 minutes, as written in our feasibility report, was to provide a flow regime equivalent to that of the past several years. Hourly load scheduling should continue, as before, to allow hourly increases in load of 4 to 5 MW.

3. Rate of drop. The problems listed above also apply to decreases in loa Required changes can be made on an hourly basis, rather than every 10 minut At the end of the irrigation season, or any time when flows are to be decrea after a period of several days or more of high flows, reduction to 1000 ft^3/ is not restricted. Below 1000 ft^3/s, decreases in load may be as fast as 4-5 MW per day. This drop may be all at once, or distributed in any manner throughout the day.

During winter load-following operations, decrease in load is not restricted.

These restrictions are intended to allow a normal power operation while protecting and enhancing the stream from a fishery point of view. Except in th case of a loss of load which cannot be quickly corrected, the proposed opera tion should not force use of jet valves or the spillway when capacity is available in the powerplant. Emphasis should be placed upon maximum utiliza of the energy resource within these constraints.

bcc: 704, 732, 73A, 770

D19

Revised February 1994

RECEIVED
FEB 18 1994
WATER RESOURCES
WESTERN REGION

BOISE PROJECT
ARROWROCK DIVISION
RESERVOIR SPACEHOLDINGS

(Acre-Feet)

Spaceholders	Lucky Peak			
Ballentyne Ditch Company	1,300			Irrigation
Boise City Canal Company	1,000			Irrigation
Ridenbaugh Canal (Nampa & Meridian Irr. Dist.)	35,000			Irrigation
Boise Valley Irrigation Ditch Company	2,500			Irrigation
South Boise Mutual Irrigation Company	500			Irrigation
Canyon County Water Company	6,000			Irrigation
Capitol View Irrigation District	300			Irrigation
Fairview Acres Lateral Association	1,500			Irrigation
Eagle Island Water Users	7,650			Irrigation
Eureka Water Company	2,800			Irrigation
Farmers Union Ditch Company	10,000			Irrigation
Middleton Irrigation Association	6,380			Irrigation
Middleton Mill Ditch Company	4,620			Irrigation
New Dry Creek Ditch Company	3,000			Irrigation
New Union Ditch Company	1,400			Irrigation
Pioneer Ditch Company	500			Irrigation
Pioneer Irrigation District	16,000			Irrigation
South Boise Water Company	700			Irrigation
Settlers Irrigation District	10,000			Irrigation
Thurman Mill Ditch Company	800			Irrigation
Subtotal		111,950		Irrigation *
Idaho Department of Fish and Game	50,000			Streamflow Maintainance
Uncontracted Streamflow Maintenance	102,300			Streamflow Maintainance
Subtotal		152,300		Streamflow Maintainance *
Total Active Capacity			264,250	
Recreation Storage	28,800			Recreation Storage
Bank Storage (refers to 63-5263)	17,000			Bank Storage
Flood Control Storage	13,950			Flood Control Storage *
Total Storage			324,000	

Received 2/18/94 per office visit by Phil GRAY, BOR.

* "joint use" later in this document

FC 8/31/07

Attachment C

Revised February 1994

BOISE PROJECT
ARROWROCK DIVISION
RESERVOIR SPACEHOLDINGS

(Acre-Feet)

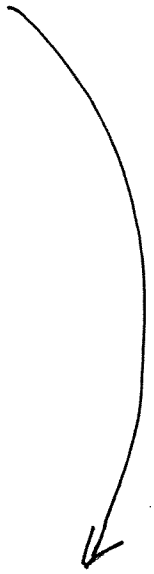
Irrigation Storage	111,950		
Irrigation Storage	28,800		
Subtotal *		140,750	Total Irrigation Storage
Irrigation from Storage	111,950		
Irrigation from Storage	28,800		
Subtotal		140,750	Total Irrigation from Storage
Streamflow Maintenance		152,300	
Streamflow Maintenance from Storage		152,300	
Subtotal			293,050
Flood Control Storage		13,950	Total Flood Control Storage
Subtotal			307,000
Bank Storage		17,000	Total Bank Storage
Total Storage			324,000 Grand Total

permit limit →

* Irrigation contracts don't include this 28,800 A-f.

E2

Lucky Peak		
Active Capacity	264,250	
Flood Control Storage	13,950	
Joint Use	278,200	



Lucky Peak		
Active Capacity	264,250	
Flood Control Storage	13,950	
Subtotal		278,200
Inactive Capacity	28,800	
Subtotal		307,000
Bank Storage	17,000	
Total Capacity for Storage		324,000

Bill Text

H0704

LEGISLATURE OF THE STATE OF IDAHO
Fifty-third Legislature Second Regular Session - 1996

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 704

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

RELATING TO INTERIM AUTHORITY FOR RENTAL OF WATER TO AUGMENT FLOWS DURING THE MIGRATION OF SNAKE RIVER SALMON; AMENDING CHAPTER 17, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1763B, IDAHO CODE, TO STATE LEGISLATIVE FINDINGS AND INTENT, TO PROVIDE WATER RENTALS, TO PROVIDE CONDITIONS ON WATER RENTALS, TO PROVIDE APPLICATION TO CERTAIN CONTRACTUAL OBLIGATIONS, TO PROVIDE EFFECTIVENESS CONTINGENT ON CERTAIN CONDITIONS OCCURRING AND TO PROVIDE A SUNSET CLAUSE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 17, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a **NEW SECTION** , to be known and designated as Section 42-1763B, Idaho Code, and to read as follows:

42-1763B. INTERIM AUTHORITY FOR RENTAL OF STORAGE WATER TO AUGMENT FLOWS DURING THE MIGRATION OF SNAKE RIVER SALMON. (1) Legislative findings and intent regarding rental of storage water from U.S. bureau of reclamation projects in the Snake River basin within Idaho to augment lower Snake River flows during the migration of Snake River salmon.

(a) The legislature finds that the U.S. bureau of reclamation requested the release of four hundred twenty-seven thousand (427,000) acre feet of water to augment salmon flows in order to satisfy the conditions of the biological opinion issued by the national marine fisheries service on March 2, 1995. The legislature authorizes the U.S. bureau of reclamation to release water from its projects under the limited conditions of this section in 1996, 1997, 1998 and 1999.

(b) It is the intent of the legislature to promptly consider the repeal of subsections (2) and (3) of this section in the event that the provisions of the biological opinion issued by the national marine fisheries service on March 2, 1995, related to the provision of flows for salmon from the Snake River basin above Brownlee Reservoir are modified or declared arbitrary, capricious or otherwise unlawful, or are set aside by any federal court.

(2) Rental of storage water from U.S. bureau of reclamation storage.

(a) Notwithstanding the legislative approval required in section 42-108, Idaho Code, any storage water release from U.S. bureau of reclamation reservoirs within the state of Idaho for

use to augment river flows during the migration of Snake River salmon pursuant to this section must be rented through the water bank operated by the Idaho water resource board pursuant to sections 42-1761 through 42-1764, Idaho Code, or through local water rental committees, created pursuant to section 42-1765, Idaho Code, under their respective water bank rules; provided however, that the agricultural preference provisions of local rental pool rules shall not apply to any uncontracted space rented by the U.S. bureau of reclamation pursuant to this section.

(b) For any rental of water pursuant to this section, the director shall not be required to determine under section 42-1763, Idaho Code, whether the water supply is sufficient for the purpose for which it is sought, whether the rental would cause the use of water to be enlarged beyond that authorized under the water right to be rented, whether such use is in the public interest, or whether such use is consistent with the factors enumerated under subsection (3) of section 42-401, Idaho Code.

(3) Conditions on storage water rentals.

(a) Any storage water made available under this section shall be obtained only from willing lessors. Any water rented under this section from reservoirs located within a basin having a local rental pool committee established pursuant to section 42-1765, Idaho Code, shall be rented pursuant to this section only through the local rental pool committee.

(b) Storage water made available under this section shall be limited to four hundred twenty-seven thousand (427,000) acre feet annually. These releases from storage shall be reduced by other water the U.S. bureau of reclamation provides for augmentation of salmon flows from the Snake River and its tributaries.

(c) In no event shall the release of water under this section cause the water surface of Cascade Reservoir to be below the elevation required to maintain a storage volume of three hundred

thousand (300,000) acre feet, fifty thousand (50,000) acre feet of which is dead space, which is currently estimated to be at an elevation of four thousand eight hundred nine and two-tenths (4,809.2) feet.

(d) The U.S. bureau of reclamation shall submit a report to the director by January 15 of each year describing the time, volume, and purpose of storage water released for salmon purposes during the past year and shall report on the plan for releases for the spring and summer chinook by April 1 and on the plan for releases for the fall chinook by July 15 of each year.

(e) All storage water rented from U.S. bureau of reclamation reservoirs under this section must be used for power production purposes within the state of Idaho.

(f) Nothing herein shall entitle the U.S. bureau of reclamation to rent storage water upon termination or expiration of the permission given in this section.

(4) Nothing in this section shall be construed to alter in any way the existing contractual obligations of the U.S. bureau of reclamation or to constitute a finding by the legislature that the rental or use of storage water for augmentation of flows for salmon migration is a beneficial use of water, that it is in the public interest, or whether such use injures existing water rights.

(5) This section shall not become effective until the

director certifies to the governor that the U.S. bureau of reclamation's applications to transfer water right numbers 46[redacted], 4617, 4618, 4623, 4625, 4626, 4627, 4628, 4629, 4630, 4631, 4632, 4633 and 4636, and to amend water right permit numbers 25-07004 and 63-3618 will be held in abeyance until July 1, 1999.

(6) On and after January 1, 2000, this act shall be null, void and of no force and effect.

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 6, 1996

The Honorable Philip E. Batt
Governor, State of Idaho
State Capitol
Boise, ID 83720-0034

RE: CERTIFICATION REQUIRED BY H.B. 704

Dear Governor Batt:

This letter certifies that the Department of Water Resources will hold the U.S. Bureau of Reclamation's Applications for Transfer Numbers 4616, 4617, 4618, 4623, 4624, 4625, 4626, 4627, 4628, 4629, 4630, 4631, 4632, 4633 and 4636 and Applications to Amend Permit Numbers 25-07004 and 63-03618 in abeyance until July 1, 1999. This certification is required under subsection 5 of Section 42-1763B, Idaho Code, as a condition for the effectiveness of House Bill 704 approved by the 1996 Legislature which will become effective July 1, 1996.

The department will hold in abeyance all actions associated with the applications including action on requests for discovery or other matters relating to the applications. If you have questions about this matter or if I can provide additional information, I am available at your convenience.

Sincerely,

KARL J. DREHER
Director

c: The Honorable Pete T. Cenarrusa
John W. Keys, III
IDWR service list for BOR transfers
IDWR - Western Region
IDWR - Southern Region
IDWR - Eastern Region

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 5, 1996

F. Y. I.

The Honorable Philip E. Batt
Governor, State of Idaho
State Capitol
Boise, ID 83720-0034

RE: CERTIFICATION REQUIRED BY H.B. 704

Dear Governor Batt:

This letter certifies that the Department of Water Resources will hold the U.S. Bureau of Reclamation's Applications for Transfer Numbers 4616, 4617, 4618, 4623, 4625, 4626, 4627, 4628, 4629, 4630, 4631, 4632, 4633 and 4636 and Applications to Amend Permit Numbers 25-07004 and 63-03618 in abeyance until July 1, 1999. This certification is required under subsection 5 of Section 42-1763B, Idaho Code, as a condition for the effectiveness of House Bill 704 approved by the 1996 Legislature which will become effective July 1, 1996.

The department will hold in abeyance all actions associated with the applications including action on requests for discovery or other matters relating to the applications. If you have questions about this matter or if I can provide additional information, I am available at your convenience.

Sincerely,

KARL J. DREHER
Director

c: The Honorable Pete T. Cenarrusa
John W. Keys, III
IDWR service list for BOR transfers
IDWR - Western Region
IDWR - Southern Region
IDWR - Eastern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR TRANSFER NOS. 4616, 4617, 4618, 4623, 4624, 4625, 4626, 4627, 4628, 4629, 4630, 4631, 4632, 4633, 4636, AND FOR THE AMENDMENT OF WATER RIGHT PERMIT NOS. 25-07004 AND 63-03618 IN THE NAME OF THE UNITED STATES BUREAU OF RECLAMATION	)	ORDER STAYING PROCEEDINGS

On May 15, 1995, the United States Bureau of Reclamation (Bureau) filed fifteen applications for transfer of water rights and two applications for amendment of water right permits with the Idaho Department of Water Resources (Department). The applications seek approval to use a combined total of up to 427,000 acre feet of water per year from Bureau reservoirs for flow augmentation purposes as a proposed contribution to salmon recovery efforts. The applications seek authorization to release water for the requested purposes beginning in the Spring of 1996.

Pursuant to the consent of the parties, the director entered an order on September 19, 1995, providing among other things that the Bureau's pending applications would be held without further action until April 1, 1996. In accordance with the stipulation of the parties, the order also directed the parties to address the issues and concerns raised by the Bureau's applications through draft legislation or other alternative means.

Legislation prepared in response to the issues and concerns identified as a result of this proceeding was introduced before the 1996 Idaho Legislature as House Bill No. 704. The legislation was approved on March 15, 1996, as Session Laws Ch. 282 to be codified as section 42-1763B, Idaho Code, with an effective date of July 1, 1996. Subsection 5 of section 42-1763B provides that the section shall not become effective until the director certifies to the Governor that the U.S. Bureau of Reclamation's applications at issue in this proceeding will be held in abeyance until July 1, 1999. Section 42-1763B, Idaho Code, as added by H.B. 704 provides as follows:

> 42-1763B. INTERIM AUTHORITY FOR RENTAL OF STORAGE WATER TO AUGMENT FLOWS DURING THE MIGRATION OF SNAKE RIVER SALMON. (1) Legislative findings and intent regarding rental of storage water from U.S. bureau of reclamation projects in the Snake River basin within Idaho to augment lower Snake River flows during the migration of Snake River salmon.
>
> (a) The legislature finds that the U.S. bureau of reclamation requested the release of four hundred twenty-seven thousand (427,000) acre feet of water to augment salmon flows in order to satisfy the conditions of the biological opinion issued by the national marine fisheries service on March 2, 1995. The legislature authorizes the U.S. bureau of reclamation to release water from its projects under the limited conditions of this section in 1996, 1997, 1998 and 1999.
>
> (b) It is the intent of the legislature to promptly consider the repeal of subsections (2) and (3) of this section in the event that the provisions of the biological opinion issued by the national marine fisheries service on March 2, 1995, related to the provision of flows for salmon from the Snake River basin above Brownlee Reservoir are modified or declared arbitrary, capricious or otherwise unlawful, or are set aside by any federal court.
>
> (2) Rental of storage water from U.S. bureau of reclamation storage.
>
> (a) Notwithstanding the legislative approval required in section 42-108, Idaho Code, any storage water release from U.S. bureau of reclamation reservoirs within the state of Idaho for use to augment river flows during the migration of Snake River salmon pursuant to this section must be

rented through the water bank operated by the Idaho water resource board pursuant to sections 42-1761 through 42-1764, Idaho Code, or through local water rental committees, created pursuant to section 42-1765, Idaho Code, under their respective water bank rules; provided however, that the agricultural preference provisions of local rental pool rules shall not apply to any uncontracted space rented by the U.S. bureau of reclamation pursuant to this section.

(b) For any rental of water pursuant to this section, the director shall not be required to determine under section 42-1763, Idaho Code, whether the water supply is sufficient for the purpose for which it is sought, whether the rental would cause the use of water to be enlarged beyond that authorized under the water right to be rented, whether such use is in the public interest, or whether such use is consistent with the factors enumerated under subsection (3) of section 42-401, Idaho Code.

(3) Conditions on storage water rentals.

(a) Any storage water made available under this section shall be obtained only from willing lessors. Any water rented under this section from reservoirs located within a basin having a local rental pool committee established pursuant to section 42-1765, Idaho Code, shall be rented pursuant to this section only through the local rental pool committee.

(b) Storage water made available under this section shall be limited to four hundred twenty-seven thousand (427,000) acre feet annually. These releases from storage shall be reduced by other water the U.S. bureau of reclamation provides for augmentation of salmon flows from the Snake River and its tributaries.

(c) In no event shall the release of water under this section cause the water surface of Cascade Reservoir to be below the elevation required to maintain a storage volume of three hundred thousand (300,000) acre feet, fifty thousand (50,000) acre feet of which is dead space, which is currently estimated to be at an elevation of four thousand eight hundred nine and two-tenths (4,809.2) feet.

(d) The U.S. bureau of reclamation shall submit a report to the director by January 15 of each year describing the time, volume, and purpose of storage water released for salmon purposes during the past year and shall report on the plan for releases for the spring and summer chinook by April 1 and on the plan for releases for the fall chinook by July 15 of each year.

(e) All storage water rented from U.S. bureau of reclamation reservoirs under this section must be used for power production purposes within the state of Idaho.

(f) Nothing herein shall entitle the U.S. bureau of reclamation to rent storage water upon termination or expiration of the permission given in this section.

(4) Nothing in this section shall be construed to alter in any way the existing contractual obligations of the U.S. bureau of reclamation or to constitute a finding by the legislature that the rental or use of storage water for augmentation of flows for salmon migration is a beneficial use of water, that it is in the public interest, or whether such use injures existing water rights.

(5) This section shall not become effective until the director certifies to the governor that the U.S. bureau of reclamation's applications to transfer water right numbers 4616, 4617, 4618, 4623, 4625, 4626, 4627, 4628, 4629, 4630, 4631, 4632, 4633 and 4636, and to amend water right permit numbers 25-07004 and 63-3618 will be held in abeyance until July 1, 1999.

(6) On and after January 1, 2000, this act shall be null, void and of no force and effect.

Having reviewed the prior stipulation of the parties in this proceeding and the provisions of House Bill 704, to be codified as section 42-1763B, Idaho Code, the director orders as follows:

ORDER

IT IS HEREBY ORDERED that, in accordance with the provisions of House Bill 704, to be codified as section 42-1763B(5), Idaho Code, effective July 1, 1996, the U.S. Bureau of Reclamation's Applications to transfer water right numbers 4616, 4617, 4618, 4623, 4624, 4625, 4626, 4627, 4628, 4629, 4630, 4631, 4632, 4633 and 4636, and to amend water right permit numbers 25-07004 and 63-3618 shall be held in abeyance until July 1, 1999.

IT IS FURTHER ORDER that:

1. All matters associated with this proceeding, including issues regarding the scope and nature of potential discovery and the holding of any hearing, shall be held in abeyance

until July 1, 1999, and the existing rights of the parties to raise issues regarding these matters shall not be diminished as a result of the issuance of this order.

2. The U.S. Bureau of Reclamation shall be authorized to release water to augment Snake River flows for salmon migration purposes during 1996, 1997, 1998 and 1999 in accordance with the provisions of section 42-1763B, Idaho Code.

3. Pursuant to section 42-1763B(3)(d), Idaho Code, the Bureau shall submit a report to the director by January 15 of each year describing the time, volume, and purpose of storage water released for salmon purposes during the past year and shall report on the plan for releases for the spring and summer chinook by April 1 and on the plan for releases for the fall chinook by July 15 of each year.

4. The Bureau, in addition, shall provide at least seven-days prior notice to the director of the actual amount, source and timing of water releases as they are made under section 42-1763B, Idaho Code, or if impracticable, as soon as feasible under the circumstances.

5. This is an interlocutory order issued pursuant to Rule 710 of the Department's Rules of Procedure, IDAPA 37.01.010710.

DATED this 5th day of June 1996.

KARL J. DREHER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have, this 7th day of June, 1996, served the foregoing upon all parties of record in this proceeding, according to the Department of Water Resource's most current service list, by mailing a copy thereof to each party.

Deborah Drew-Ellis
Legal Secretary

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

November 20, 1990

RE: Permit No. 63-3618

Bureau of Reclamation
214 Broadway
Boise, ID 83702

Dear Water Right Holder(s):

Enclosed is a copy of your approved Application for Amendment submitted in connection with the above referenced permit.

If you have any questions concerning this document, please feel free to contact us.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:blm

Enclosure

MICROFILMED
DEC11 1990

Form No. 211a
11/78

State of Idaho

Department of Water Resources

AMENDMENT ANALYSIS SHEET

INITIAL REVIEW BY: DRT

Right Number 63-3618 Applicant U.S. BOR

Purpose of Amendment: ☐ Change point of diversion. ☐ Add diversion point(s).

☐ Increase amount. ☐ Change place of use. ☒ Other Change Use

CHECK:

- ☑ Description of amended point(s) of diversion.
- ☑ Amount, nature and period of use. If increased, delay date of priority.
- ☑ Description of amended places of use. If expanded, delay date of priority.
- ☑ Ownership of point of diversion and place of use.
- ☑ Map. N/A
- ☑ Signature (must be permit holder).
- ☑ Fee.
- ☑ Existing water rights from the same source, amended place of use.
- ☑ Right number(s) _____
- ☑ Yes ☐ No Should amendment be advertised?
- ☐ Yes ☑ No Should date of priority be delayed? If yes, to what date? _____

FINAL REGIONAL PROCESSING REVIEW:

- ☑ Affidavit of publication received.
- ☑ Amendment published correctly.
- None ☐ Protests processed.
- ☑ Approve.
- ☐ Deny.

Conditions 1. The allocation of 152,300 acre feet of storage space for stream flow maintenance includes 50,000 acre feet allocated for the same purpose under the original permit. 2. This amended distribution of storage space allocation expires as soon as streamflow maintenance water is repaid prior to the 1991 irrigation season.

By DRT Date 9/13/1990

STATE OFFICE PROCESSING:

- ☐ Amendment correct and complete. By _____ Date _____
- ☑ Approved copy sent to applicant and to Region. By Brenda Miller Date 11-5-90

RECEIVED
SEP 18 1990
Department of Water Resources

Form 211
5/78

Ident. No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR AMENDMENT OF A PERMIT

APPROVED

To change the point of diversion and/or the place of use

Comes now The United States of America acting through the Regional Director, Pacific Northwest Region, Bureau of Reclamation

of (address) Box 043-550 West Fort Street, Boise, Idaho 83724 , and represents to the Director of the Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 63-3618/R-1183 , and requests that the permit ~~and permit map be~~ changed as follows:

1. Point of diversion: SE ¼ NE ¼, Section 11 , Township 2N , Range 3E , B.M., County of Ada . Other points of diversion:

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)

Amount 111,950 (cfs or acre feet per annum)	for storage for irrigation	purposes from	~~April 15~~ January 1	to ~~Oct. 15~~ December 31* (both dates inclusive)
Amount 152,300 (cfs or acre feet per annum)	for storage for streamflow maintenance*	purposes from	Jan. 1	to Dec. 31 (both dates inclusive)
~~152,300~~ Amount ~~13,950~~ (cfs or acre feet per annum)	~~for Flood Control~~ streamflow maintenance from storage	purposes from	~~Jan. 1~~ Jan. 1	to ~~Dec. 31~~ Dec. 31* (both dates inclusive)
Amount 28,800 (cfs or acre feet per annum)	for ~~Dead Storage~~ Storage for recreation*	purposes from	Jan. 1	to Dec. 31 (both dates inclusive)
111,950	irrigation from storage		March 15	November 15*

*per letter dated 5/15/1984 - DRT

3. Place of use or land to be irrigated:

TWP	RGE	SEC	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
							BOISE FEDERAL RECLAMATION PROJECT LANDS												

Total number of acres to be irrigated = _____

4. a. Who owns the property at the point of diversion? United States of America

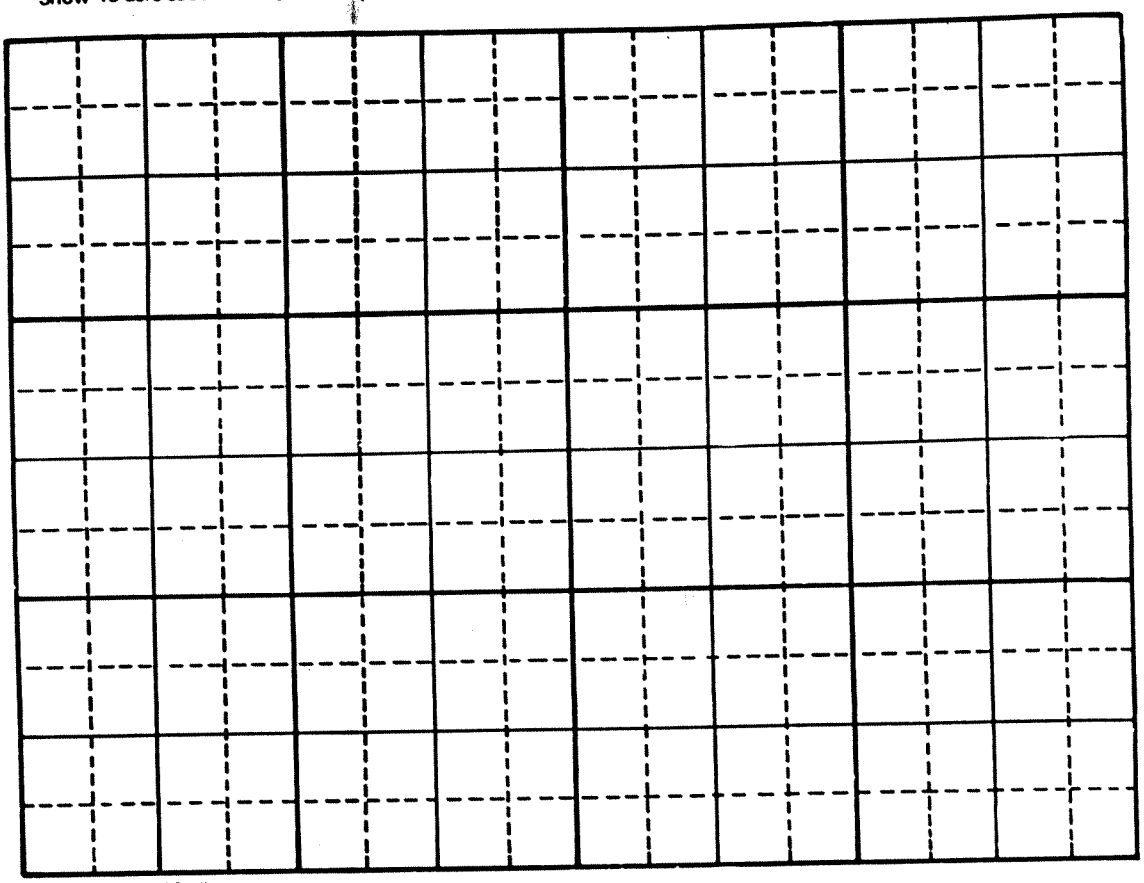
b. Who owns the land to be irrigated or the place of use? Various landowners

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Federal Reclamation Project contracts with various water user organizations.

MICROFILMED
DEC 11 1990

Complete the following map by showing land and point of diversion as proposed by this amendment.

Show 40-acre subdivisions, townships, ranges and ditches.



Scale: 2 inches equal 1 mile.

That no one will be injured by such change, and that such change will be made at permit holder's own risk.

Signed at Boise, Idaho, this 9th day of May, 1984.

John W. Kaye, II
(Signature)

FOR DEPARTMENT USE ONLY

Preliminary check by ____ Fee = $20.00 ____ Receipted by ____ Date ____

Publication prepared by ____ Date ____ Published in ____

Publication dates ____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

I, ____, Director of the Department of Water Resources hereby APPROVE the above Application for Amendment of Permit No. R-1183 (63-3618) provided the following condition are met:

1. The allocation of 152,300 acre feet of storage space for stream flow maintenance includes 50,000 acre feet allocated for same purpose under the original permit.

Witness my hand this 11th day of February, 1985.

R. Keith Higginson

MICROFILMED
DEC 11 1990

NOTICE OF APPLICATION FOR AMENDMENT

Notice is hereby given that Permit No. 63-3618 in the name of the United States Bureau of Reclamation was filed on 4/12/1963 for the diversion of 307,000 acre-feet from the Boise River with a point of diversion at Lucky Peak Dam within the SE1/4 NE1/4, Sec. 11, T. 2N., R. 3E., to be used for irrigation within the irrigation system of the Boise Valley.

On 2/14/1985 the permit was amended to change the nature of use to describe 111,950 acre-feet storage for irrigation from 1/1 to 12/31, 111,950 acre-feet irrigation from storage from 3/15 to 11/15, 152,300 acre-feet storage for streamflow maintenance from 1/1 to 12/31, 152,300 acre-feet streamflow maintenance from storage from 1/1 to 12/31, and 28,800 acre-feet storage for recreation from 1/1 to 12/31, for a total of 293,050 acre-feet.

The permit holder now proposes to amend the permit by allowing 32,500 acre-feet of streamflow maintenance water to be used for irrigation of lands served under existing storage water contracts in the Boise River system during the 1990 season. This temporary amendment is intended to expire as soon as the streamflow maintenance water is repaid prior to the 1991 irrigation season.

Any protest against the approval of the proposed amendment must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 on or before August 6, 1990. If protests are received, a hearing will be scheduled to be held on August 10, 1990. Copies of the Application for Amendment and associated explanatory documents are available upon request.

R. Keith Higginson
Director

Published in the Idaho Statesman on 7/19 and 7/26/1990, and in the Press Tribune on 7/18 and 7/25/1990.

MICROFILMED
DEC 11 1990

United States Department of the Interior

BUREAU OF RECLAMATION
CENTRAL SNAKE PROJECTS OFFICE
214 BROADWAY AVENUE
BOISE, IDAHO 83702-7298

TAKE PRIDE IN AMERICA

IN REPLY
REFER TO:
100

July 11, 1990

JUL 13 1990
Department of Water Resources
Western Regional Office

Hand-Delivered

Mr. David R. Tuthill, Jr., P.E.
Manager, Western Regional Office
2735 Airport Way
Boise, Idaho 83705

Subject: Loan of Lucky Peak Instream Flow Storage Water (Water Exchange)

Dear Dave:

Enclosed is an application for a temporary amendment to the Bureau of Reclamation's Lucky Peak Permit (No. 63-3618). The amendment would allow four irrigation districts who are critically short of water, the right to use up to 32,500 acre-feet of Lucky Peak Instream Flow water (USBR Account) for irrigation purposes this irrigation season. The irrigation districts would replace this borrowed water during the 1990-1991 storage season.

Also enclosed is correspondence from this office to Mr. Gary Spackman of your state office. If you have any questions concerning this matter, please feel free to contact me at 334-1460.

Sincerely,

Jerrold D. Gregg
Project Superintendent

cc: Boise Watermaster (w/enclosure)

MICROFILMED
DEC 11 1990

1. General Information

   a. The amount of water for which the purpose of use may be modified is 32,500 acre-feet.

   b. Storage water is to be released from Lucky Peak Reservoir.

   c. The reasons for the proposed change is to provide an emergency supplemental irrigation water supply to entities with existing storage contracts (Arrowrock and Anderson Ranch contracts) in the Boise River system.

2. Change

   a. This amendment is not intended to permanently alter the distribution of uses for storage waters in Lucky Peak Reservoir. Instead, this amendment will authorize the use of up to 32,500 acre-feet for irrigation of lands served under existing storage water contracts (Arrowrock and Anderson Ranch) in the Boise River system during the 1990 season.

   b. Distribution of irrigation water made available upon approval of this application will be carried out according to the provisions of the attached draft agreement. This agreement will be executed with the four proposed parties prior to any water being released from Lucky Peak Reservoir.

   c. The proposed amendment will reduce this amount of storage remaining in the upper reservoir system at the end of the irrigation season which will cause a minor decrease in lake levels (Lucky Peak and Anderson Ranch).

MICROFILMED
DEC 11 1990

United States Department of the Interior

BUREAU OF RECLAMATION
CENTRAL SNAKE PROJECTS OFFICE
214 BROADWAY AVENUE
BOISE, IDAHO 83702-7298

IN REPLY
REFER TO:

100

July 10, 1990

Mr. Gary Spackman
Idaho Department of Water Resources
1301 N. Orchard
Statehouse Mail
Boise, Idaho 83720

Subject: Loan of Lucky Peak Instream Flow Storage Water
(Water Exchange)

Dear Gary:

As you know there is a water shortage in the Boise System this year. To help alleviate this situation for irrigation districts that are critically short of water, this office is proposing to lend the affected districts storage water from Reclamation's Lucky Peak Instream Flow Account.

Districts that borrow water from the account would be required to repay the water from any carryover water the districts may have, or they would be required to subordinate their water rights in Project Reservoirs in order to repay the borrowed water. This exchange would not affect our capability to make the minimum flow release below Boise Diversion Dam this fall and winter.

According to the District No. 63 Watermaster's Report of June 18, 1990, Reclamation's Instream Flow Account held 32,501 acre-feet of water. We are proposing to lend this storage water to the following irrigation districts:

District	Proposed Storage Water Exchange Amounts (Acre-Feet)
Boise Project Board of Control	25,350
Farmers Union	1,410
Pioneer Irrigation District	3,710
Settlers Irrigation District	2,030
TOTAL	32,500

MICROFILMED
DEC 11 1990

Enclosed for your information is a draft copy of the agreement we intend to use with the irrigation districts. This office would like to transfer the water from the instream flow account to the irrigation districts storage accounts by August 3, 1990.

If you have any questions concerning this matter or there are certain requirements that must be met before the temporary transfer is made, please feel free to contact me at 334-1460.

Sincerely,

Jerrold D. Gregg
Project Superintendent

Enclosures

cc: Boise Project Board of Control (w/enclosure)
Pioneer Irrigation District (w/enclosure)
Farmers Union Irrigation District (w/enclosure)
Settlers Irrigation District (w/enclosure)
Watermaster No. 63 (w/enclosure)

MICROFILMED
DEC 11 1990

6/18/90

TABLE 2. 1990 BOISE RIVER RESERVOIR STORAGE ACCOUNTS. (ACRE-FEET)

NUMBER	USER	ARROWROCK STORAGE	ANDERSON RANCH CARRYOVER	ANDERSON RANCH NEW FILL	ANDERSON RANCH STORAGE	LUCKY PEAK CARRYOVER	LUCKY PEAK NEW FILL	LUCKY PEAK STORAGE	SUBTOTAL	TRANSFERS	WTR BANK	TOTAL
13201050	LUCKY PEAK NURSERY	200.0	0.0	0.0	0.0	0.0	0.0	0.0	200.0	0.0	0.0	200.0
13201990	FISH & GAME FLOW	0.0	0.0	0.0	0.0	10600.0	15524.2	26124.2	26124.2	0.0	0.0	26124.2
13201991	USBR FLOW	0.0	0.0	0.0	0.0	739.0	31762.5	32501.5	32501.5	0.0	0.0	32501.5
13203000	NEW YORK	254571.0	141459.1	116725.9	258185.0	0.0	0.0	0.0	512756.0	0.0	0.0	512756.0
13203760	RIDENBAUGH	3832.0	0.0	4912.6	4912.6	6064.1	10866.9	16931.0	25675.7	0.0	0.0	25675.7
13204005	BUBB	0.0	153.3	176.2	329.5	337.3	155.2	492.5	822.1	0.0	0.0	822.1
13204060	ROSSI MILL	0.0	0.0	0.0	0.0	472.2	217.3	689.5	689.5	0.0	0.0	689.5
13204190	BOISE CITY	0.0	0.0	0.0	0.0	233.2	310.5	543.7	543.7	0.0	0.0	543.7
13205515	SETTLERS	2878.0	0.0	1973.9	1973.9	4808.8	3104.8	7913.6	12765.5	0.0	0.0	12765.5
13205517	DAVIS	0.0	0.0	0.0	0.0	934.4	465.7	1400.1	1400.1	0.0	0.0	1400.1
13205622	THURMAN MILL	0.0	0.0	0.0	0.0	539.6	248.4	788.0	788.0	0.0	0.0	788.0
13205638	BOISE WATER CORP	0.0	535.0	324.5	859.5	0.0	0.0	0.0	859.5	0.0	0.0	859.5
13205640	FARMERS UNION	2874.0	0.0	1858.7	1858.7	2160.1	3104.8	5264.9	9997.6	0.0	0.0	9997.6
13205641	BOISE VALLEY	0.0	769.4	191.6	961.0	1686.4	776.2	2462.6	3423.6	0.0	0.0	3423.6
13205643	CAPITOL VIEW	0.0	460.0	0.0	460.0	202.4	93.1	295.5	755.5	0.0	0.0	755.5
13206090	NEW DRY CREEK	0.0	737.3	420.6	1157.9	2023.7	931.5	2955.2	4113.1	0.0	0.0	4113.1
13206092	NEW UNION	0.0	0.0	0.0	0.0	694.9	434.7	1129.6	1129.6	0.0	0.0	1129.6
13206265	BALLENTYNE	0.0	97.4	122.0	219.4	876.9	403.6	1280.5	1500.0	0.0	0.0	1500.0
13208710	MIDDLETON	0.0	0.0	0.0	0.0	6717.0	3415.3	10132.3	10132.3	0.0	0.0	10132.3
13209480	PHYLLIS	21018.0	302.7	8302.5	8605.2	10792.8	4967.7	15760.5	45383.7	0.0	0.0	45383.7
13209482	EUREKA #1	0.0	0.0	0.0	0.0	1449.6	869.4	2319.0	2319.0	0.0	0.0	2319.0
13209630	LITTLE PIONEER	0.0	1819.3	354.7	2174.0	337.3	155.2	492.5	2666.5	0.0	0.0	2666.5
13209990	CANYON COUNTY	0.0	0.0	0.0	0.0	3133.8	1862.9	4996.7	4996.7	0.0	0.0	4996.7
13210992	SEBREE	1227.0	0.0	0.0	0.0	0.0	0.0	0.0	1227.0	0.0	0.0	1227.0
99999050	ANDERSON DAM POWER	0.0	4200.0	0.0	4200.0	0.0	0.0	0.0	4200.0	0.0	0.0	4200.0
99999100	EAGLE IS CANALS	0.0	0.0	0.0	0.0	4618.8	2375.2	6994.0	6994.0	0.0	0.0	6994.0
	TOTAL	286600.0	150533.5	135363.2	285896.7	59422.3	82045.4	141467.7	713964.4	0.0	0.0	713964.4

MICROFILMED
DEC 11 1990

July 9, 1990

100

DRAFT

Mr. Kenneth Henley
Manager
Boise Project Board of Control
214 Broadway
Boise, Idaho 83702

Subject: Loan of Lucky Peak Instream Flow Storage Water
(Water Exchange)

Dear Ken:

Because of the serious water shortage in the Boise River System this year, the Bureau of Reclamation has decided to lend irrigation districts, who are critically short of water, storage water from Reclamation's Lucky Peak Account.

There is approximately 32,500 acre-feet of storage water in Reclamation's Lucky Peak Instream Flow Account. Because there is a demand for more than 32,500 acre-feet of water, we will lend the storage water to interested districts on a pro-rata basis. The Boise Project Board of Control's share of the storage water would be 25,350 acre-feet. It is understood that water made available through this agreement shall be delivered only when existing natural flow and other storage rights held by the Boise Project Board of Control are not available to meet the Board's diversion requirements.

The Board of Control agrees to subordinate its water rights to the extend necessary to repay the Bureau of Reclamation's instream flow storage water as follows:

1. The borrowed water will be repaid from the Boise Project Board of Control's Anderson Storage Account (carryover storage water), and/or;

2. During the 1990-91 storage season, the first waters accruing to the Boise Project Board of Control's storage space (Arrowrock, Anderson Ranch and Lake Lowell Reservoirs) will be transferred to the Bureau of Reclamation's Instream Flow Account;

3. The total amount of water to be repaid by the Boise Project Board of Control according to provisions of paragraphs 1 and 2 or a combination thereof, shall equal the amount of water borrowed by the Boise Project Board of Control;

4. In the event the system fills at any time from the date hereof to April 30, 1991, these conditions will terminate and no repayment of water will be required.

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DEC11 1990

If this understanding is acceptable to the Boise Project Board of Control, I would appreciate your indicating such by having the Chairman of the Board sign the concurrence line on the bottom of this letter and return it to me as soon as possible.

Sincerely,

Jerrold D. Gregg
Project Superintendent

Concur:

_____ _____
Chairman, Boise Project Board of Control Date

MICROFILMED
DEC 11 1990

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

August 19, 1987

Bureau of Reclamation
214 Broadway Avenue
Boise, ID 82702

Re: Memorandum Decision and Order Granting Amendment to Permit

Gentlemen:

Enclosed is a copy of the Memorandum Decision and Order Granting Amendment to Permit dated June 6, 1987.

Please be advised that if you do not agree with the decision of the Department, you may within fifteen (15) days of receipt of the Memorandum, request a hearing before the Director. Failure to timely petition the Director within fifteen days of the receipt of the Memorandum may prevent you from further contesting the Memorandum Decision regarding your application.

Sincerely,

Gary Spackman

GARY SPACKMAN, Supervisor
Water Allocation Section

GS:jf

Enclosures

MICROFILMED
MAR 10 1988

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS
Print your name, address, and ZIP Code in the space below.
- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RECEIVED
MAY

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, $300

U.S.MAIL

Department of Water Resources
Western Regional Office
DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705

MICROFILMED
DEC 11 1990

RETURN TO
RECEIVED
MAY 04 1987
Department of Water Resources

Idaho Department of Water Resources
Western Region
[redacted]
Boise, Idaho [redacted]

(Name of Sender)
(Street or P.O. Box)
(City, State, and ZIP Code)

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PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, $300

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DEC 11 1990

RETURN TO
RECEIVED
MAY 4 1987
Department of Water Resources
Western Regional Office

DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705

Idaho Department of Water Resources
Western Region
[redacted]
Boise, Idaho [redacted]

(Name of Sender)
(Street or P.O. Box)
(City, State, and ZIP Code)

INTER-DEPARTMENT MEMO — 1

FROM Ken

DATE 7-21-87

TO Norm

SUBJECT 63-3618 - Change nature use

Approve subject to submission of plan implementing condition of "need", as we discussed. Cite apparent failure to meet conditions of prior approval

SIGNATURE

INTER-DEPARTMENT MEMO — 1

FROM Jim

DATE

TO Ken

SUBJECT Amendment

Ken before we can process this we need to have the concern of Dave T's memo addressed.

SIGNATURE

ACTION REQUIRED

RECEIVED JUL 8 1987

7/7/87

FROM: Dave Tuthill Department of Water Resources

TO: Jim Johnson, Gary Spackman, Glen Saxton, Norm Young, Ken Dunn

It is critical that this App for Amendment be processed quickly, as this water is to be used this summer.

I have only one concern. In a meeting on June 5, 1987, Ken Dunn stated that his evaluation of this app would depend in part on compliance with conditions of approval of the App for Amendment of 44,700 af which was approved on May 20, 1987. I called Carl Padour today to ascertain compliance. this response, which is documented in the file, may be unsatisfactory. As a next step I would suggest that the Director call Ray Givens to discuss the inhibitors to full compliance with the conditions of approval.

Dave

Comment Report

63-3618

1. kwalker 3/18/2002 Irrigation Place of Use
Comment: Pursuant to Rule 35.03.e the place of use for irrigation does not need to be described by legal subdivision, but may be described generally as the lands under the project works. Examiner and information in file show the maximum number of acres under this right to be 324,300 acres. I have used a remark recommended by the BOR in their correspondence of 10/19/2001 to describe the place of use. I found, in looking at other rights for reservoirs which have been licensed, that the remarks on those rights are pretty vague too. See examples of these remarks in this file.

2. kwalker 3/19/2002 Point of Diversion
Comment: Examiner recommended adding 2 40-acre tract descriptions to identify the location of the entire dam under this right. In looking at the file and topographical map X60, we found that the point of diversion originally permitted covers the area where the natural flow of the Boise River would have gone if not dammed up. In discussions with Shelley it was determined that we should not add the additional 40-acre tracts to the point of diversion description.

INDICATES TOTAL SOURCE: NORTH FORK, PAYETTE RIVER

RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE	USE PERIOD FROM TO	MAX AMOUNT MAX RATE	DIVERSION POINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT
65-9080	COLWELL, DELBERT E. 4114 HILL ROAD, BOISE, IDAHO 83703 REMARKS: THIS RIGHT WHEN COMBINED WITH RIGHT 65-9081 SHALL PROVIDE FOR DOMESTIC NO MORE THAN .04 CFS NOR 1.2 AFA.	6/ 1/1924	DOMESTIC	1/ 1 12/31	1.20 AFA .04 CFS	NESW S 8 T18N R 3E	NESW S 8 T18N R 3E	BENEFICIAL USE
65-2338X	IDAHO POWER COMPANY 1220 IDAHO STREET, BOISE, IDAHO 83706	10/ 6/1925	POWER	1/ 1 12/31	--- AFA 25.00 CFS	LOT 1 S26 T14N R 3E	LOT2 S25 T14N R 3E	LICENSE
65-2338A	IDAHO POWER COMPANY 1220 IDAHO STREET, BOISE, IDAHO 83706	8/24/1937	POWER	1/ 1 12/31	--- AFA 125.00 CFS	LOT 1 S26 T14N R 3E	LOT2 S25 T14N R 3E	LICENSE
65-2927	U. S. DEPT. OF INTERIOR BUREAU OF RECLAMATION, ATTN: 424 BOX 043, 550 WEST FORT STREET, BOISE, IDAHO 83724 REMARKS: PLACE OF USE IS PAYETTE RIVER VALLEY.	12/24/1937	POWER STORAGE	1/ 1 12/31	700000.00 AFA --- CFS	LOT 1 S26 T14N R 3E LOT 5 S26 T14N R 3E	SAME AS OTHER USE	LICENSE
			IRRIGATION STORAGE	1/ 1 12/31	700000.00 AFA --- CFS		SAME AS OTHER USE	
			IRRIGATION FROM STOR	1/ 1 12/31	700000.00 AFA --- CFS		SAME AS OTHER USE	
			POWER FROM STOR	1/ 1 12/31	700000.00 AFA --- CFS		SAME AS OTHER USE	
					*700000.00*AFA *---*CFS			
65-10374	ROWLAND, LEONARD BOX 809, MC CALL, IDAHO 83638	6/ 1/1949	DOMESTIC	1/ 1 12/31	1.20 AFA .04 CFS	LOT 3 S 8 T18N R 3E	LOT3 S 8 T18N R 3E	BENEFICIAL USE
65-2534	PANCHERI, DARWIN & PANCHERI, LOAN L. & PANCHERI, DLANE & PANCHERI, LAURA MELBA, IDAHO 83641 REMARKS: THIS RIGHT WHEN COMBINED WITH RIGHT 65-11250 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.	7/21/1950	IRRIGATION	4/15 10/15	--- AFA 10.00 CFS	SWNE S 6 T13N R 4E	NESW(15) NESE(5) NWSE(26) SWSE(18) SESE(4) LOT13(2) S 6 T13N R 4E NENE(15) NWNE(30) SWNE(40) SENE(21) NENW(4) SENW(13) NESW(18) SESW(9) NESE(33) NWSE(40) SWSE(38) SESE(37) S 7 T13N R 4E LOT12(9) LOT13(9) S 5 T13N R 4E *386*	LICENSE

Cascade Reservoir.

INDICATES TOTAL SOURCE: NORTH FORK, PAYETTE RIVER

RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE	USE PERIOD FROM TO	MAX AMOUNT MAX RATE	DIVERSION POINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT
65-2060	LAKE RESERVOIR COMPANY 114 NORTH 8TH, PAYETTE, IDAHO 83661 REMARKS: POINTS OF DIVERSION AND PLACES OF USE ARE THOSE OF EMMETT IRRIGATION, FARMER'S CO-OP, ENTERPRISE, LETHA, NOBEL DITCH, AND LOWER PAYETTE DITCH.	5/ 1/1907	IRRIGATION	3/15 11/15	--- AFA 3.00 CFS	*		LICENSE
65-3580	DAVIS, THOMAS J. CASCADE, IDAHO 83611	4/ 1/1917	IRRIGATION	4/15 10/15	--- AFA .84 CFS	LOT 2 S25 T14N R 3E	NESE(7) S25 T14N R 3E NWNW(37) S31 T14N R 4E *44*	BENEFICIAL USE
65-4031X	DAVIS, THOMAS J. CASCADE, IDAHO 83611	4/ 1/1917	IRRIGATION	4/15 10/15	--- AFA 2.50 CFS	LOT 2 S25 T14N R 3E	SESE(5) S13 T14N R 3E NENE(34) NWNE(23) SWNE(20) SENE(38) NESE(24) NWSE(25) SWSE(35) SESE(15) S24 T14N R 3E NENE(23) SENE(22) S25 T14N R 3E SWNW(38) SENW(40) NESW(40) NWSW(39) SWSW(38) SESW(29) S19 T14N R 4E NENW(39) SENW(39) NESW(40) SESW(28) S30 T14N R 4E *634*	BENEFICIAL USE
65-3784	NISSULA, RAY & NISSULA, PHYLLIS P. O. BOX 329, CASCADE, IDAHO 83611	4/ 1/1917	IRRIGATION	4/15 10/15	--- AFA .10 CFS	LOT 2 S25 T14N R 3E	LOT 1(4) LOT 2(1) S25 T14N R 3E *5*	BENEFICIAL USE
65-2232	IDAHO POWER COMPANY 1220 IDAHO STREET, BOISE, IDAHO 83706	12/ 3/1918	POWER	1/ 1 12/31	36135.00 AFA 50.00 CFS	LOT 1 S26 T14N R 3E	LOT2 S25 T14N R 3E	LICENSE
65-0593	BOISE CASCADE CORP. TIMBER & WOOD PRODUCTS DIV., 1010 JEFFERSON STREET, BOISE, IDAHO 83702	7/ 1/1921	INDUSTRIAL	1/ 1 12/31	82.56 AFA 2.67 CFS	NENE S36 T14N R 3E	NENE NWNE S36 T14N R 3E	BENEFICIAL USE

03/18/2002

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-3614

WATER RIGHT NUMBER: 63-3614

Owner Type	Name and Address
Current Owner	US DEPT OF INTERIOR BUREAU OF RECLAMATION PN REGIONAL OFFICE 1150 N CURTIS RD SUITE 100 BOISE, ID 83706-1234 (208)378-5155

Priority Date: 12/09/1940

Basis: License

Status: Active

Source	Tributary
SOUTH FORK BOISE RIVER	BOISE RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION STORAGE	1/01	12/31		487,961.00 AF
IRRIGATION FROM STORAGE	3/15	11/15		487,961.00 AF
POWER STORAGE	1/01	12/31		493,161.00 AF
POWER FROM STORAGE	1/01	12/31		493,161.00 AF
MUNICIPAL STORAGE	1/01	12/31		5,200.00 AF
INDUSTRIAL STORAGE	1/01	12/31		5,200.00 AF
MUNICIPAL FROM STORAGE	1/01	12/31		5,200.00 AF
INDUSTRIAL FROM STORAGE	1/01	12/31		5,200.00 AF
		Total Diversion:		493,161.00 AF

Location of Point(s) of Diversion

SOUTH FORK BOISE RIVER L4 NW1/4SE1/4 Sec. 1, Twp 01S, Rge 08E, B.M.

ELMORE County

Place of Use

Conditions of Approval:

Remarks:

1. General Place of use is 277,000 acres within the lands of the Boise Federal Reclamation Project in Ada and Canyon Counties, including all lands for contracts under Federal Reclamation laws for space in Anderson Ranch Reservoir.

Anderson Ranch

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-3613

WATER RIGHT NUMBER: 63-3613

Owner Type	Name and Address
Current Owner	US DEPT OF INTERIOR BUREAU OF RECLAMATION PN REGIONAL OFFICE 1150 N CURTIS RD SUITE 100 BOISE, ID 83706-1234 (208)378-5155

Priority Date: 06/25/1938

Basis: License

Status: Active

Source	Tributary
BOISE RIVER	SNAKE RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
DOMESTIC STORAGE	1/01	12/31		15,000.00 AF
IRRIGATION STORAGE	1/01	12/31		15,000.00 AF
DOMESTIC FROM STORAGE	1/01	12/31		15,000.00 AF
IRRIGATION FROM STORAGE	4/01	10/31		15,000.00 AF
		Total Diversion:		15,000.00 AF

Location of Point(s) of Diversion

BOISE RIVER NW1/4SE1/4 Sec. 13, Twp 03N, Rge 04E, B.M.

BOISE County

Place of Use

Conditions of Approval:

1. 016 See remarks for additional conditions of approval.

Remarks:

Comments: nothing

Dates and Other Information:

Arrowrock

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-303

WATER RIGHT NUMBER: 63-303

Owner Type	Name and Address
Current Owner	UNITED STATES OF AMERICA 550 W FORT ST MSC 033 BOISE, ID 83724

Priority Date: 01/13/1911

Basis: Decreed

Status: Active

Source	Tributary
BOISE RIVER	SNAKE RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION STORAGE	/	/		
IRRIGATION	/	/	8,000.000 CFS	

Total Diversion: 8,000.000 CFS

Location of Point(s) of Diversion

BOISE RIVER

Place of Use

Conditions of Approval:

Remarks:

1. General STORAGE IN ARROWROCK RESERVOIR.
SEE FILE FOR DELIVERY INST.

Comments:

Dates and Other Information:

Point of Diversion Review Sheet for SENE, S11, T2N, R3E

Basin	Sequence	Split	Basis	Priority Date	Water Use List	Source Table
63	3618		Permit	1/1/1955	FLOOD CONTROL STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE, MINIMUM INSTREAM FLOW FROM STORAGE, MINIMUM INSTREAM FLOW STORAGE	wrAdjudicationClaim
63	3618		Permit	4/12/1963	FISH HABITAT FROM STORAGE, FISH HABITAT STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE, RECREATION STORAGE	wrAdjudicationRecommendation
63	3618		(Draft License)	4/12/1963	FISH HABITAT FROM STORAGE, FISH HABITAT STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE, RECREATION STORAGE	wrWaterRight
63	3618			4/12/1963	FISH HABITAT FROM STORAGE, FISH HABITAT STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE, RECREATION STORAGE	wrWaterPermit
63	3618	A	Permit	1/1/1955	IRRIGATION, IRRIGATION FROM STORAGE, IRRIGATION STORAGE	wrAdjudicationClaim – Pioneer I.D.
63	3618	B	Permit	4/12/1963	IRRIGATION FROM STORAGE, IRRIGATION STORAGE	wrAdjudicationClaim Settler's I.D.
63	5263		Statutory C	1/1/1955	IRRIGATION FROM STORAGE, IRRIGATION STORAGE	wrAdjudicationClaim
63	5263		Statutory C	1/1/1955	IRRIGATION FROM STORAGE, IRRIGATION STORAGE	wrWaterRight
63	9019	BPB of C SENE, 11		8/31/1977	POWER	wrWaterPermit → no exam in files
63	11069	BPB of C SENE, 11		11/15/1989	POWER	wrWaterPermit

from back of permit

R698 = 63-3614 – Anderson Ranch
R652 = 63-3613 – Arrowrock
430 = 63-2004 = 63-0301 – BOR – 1354.58 cfs – "Deer Flat" & Boise Kuna, Big Bend, Nampa & Meridian New York & Wilder Irr. Dist.
7180 = 63-2158 = 63-0303 → BOR – 8000.00 cfs
4800 = 63-2107 = 63-0302 & 63-0367 (1500. cfs)
16098 = 63-2388

Arrow-rock Dam

300. cfs → Diversion Dam 634. cfs

No prior rights for Lucky Peak found – KW 3/19/02
Dam completed in 1954 per dam safety files

LICENSE REVIEW CHECKLIST

Permit No. 63-3618 Date: 3-18-02 Reviewer: Kay Walker

Change/OK

Name/Address ok

Source ok

Point of Diversion: ~~ok~~

Does change clarify original intended source? If no, void permit.

Change (P39/P49) Add (P45/P44) Feds (P40)

W32 (multiple in 1/4/1/4)
W36 (overlap)
W59 (subdivision description)

2 dam ~~covers 3 40ac. tract descriptions rather than 1~~ NO - comment see report

Place of Use —

Change (P41/P49) Add (P41/P44) Feds (P43)

W60 (subdivision description)
W27 (ppu acre limit)

Overlaps: Right(s): none

File reviewed____ Profile reports printed_____

P/D & P/U amend (P37) Feds (P48)

Rate of Diversion:

Permitted rate 307000. ~~cfs~~ AF
Fee Limit 2001 + ~~cfs~~ AF Recommended Total Diversion Rate 307000. AF as permitted
Measured 307000. ~~cfs~~ dam safety
Theoretical _____ cfs

Water Uses ok Change (P46)

Season of Use per new Standards
3-1 11-15

Irrigation	_____ cfs	_____ af
Stockwater	_____ cfs	_____ af
Domestic	_____ cfs	_____ af
_____	_____ cfs	_____ af
_____	_____ cfs	_____ af
Total	_____ cfs	_____ af

~~**Irrigation**~~ - overlap(R58-R61, **R62-R65, R66-R69)**
~~supp~~. Gw (WB7/065/104)
~~overlap~~ spec combined rts (W35)
~~≤1 acre~~ (W31)
~~Domestic~~ (W01/wb5/070/071/075)
~~Power~~ (W42 or W43/025/027/R22 or R23
~~Fish (042)~~ — No
~~Fire~~ (077)
~~Water~~ Quality (106/R07)
~~Payette~~ – (W22/047/27A)
~~Stock~~water for US (R37)

Volume Determination

_____ cfs x 1.9835 x _____ days = _____ af **(vs)** _____ acres x _____ (FHR) = _____ af

Remarks:_____

Additional Conditions yes Watermaster Control 63
_____GW Measurement/Measuring Device
_____ Other
~~Trust R55~~ – remove 051)
~~Non-trust~~ (048)

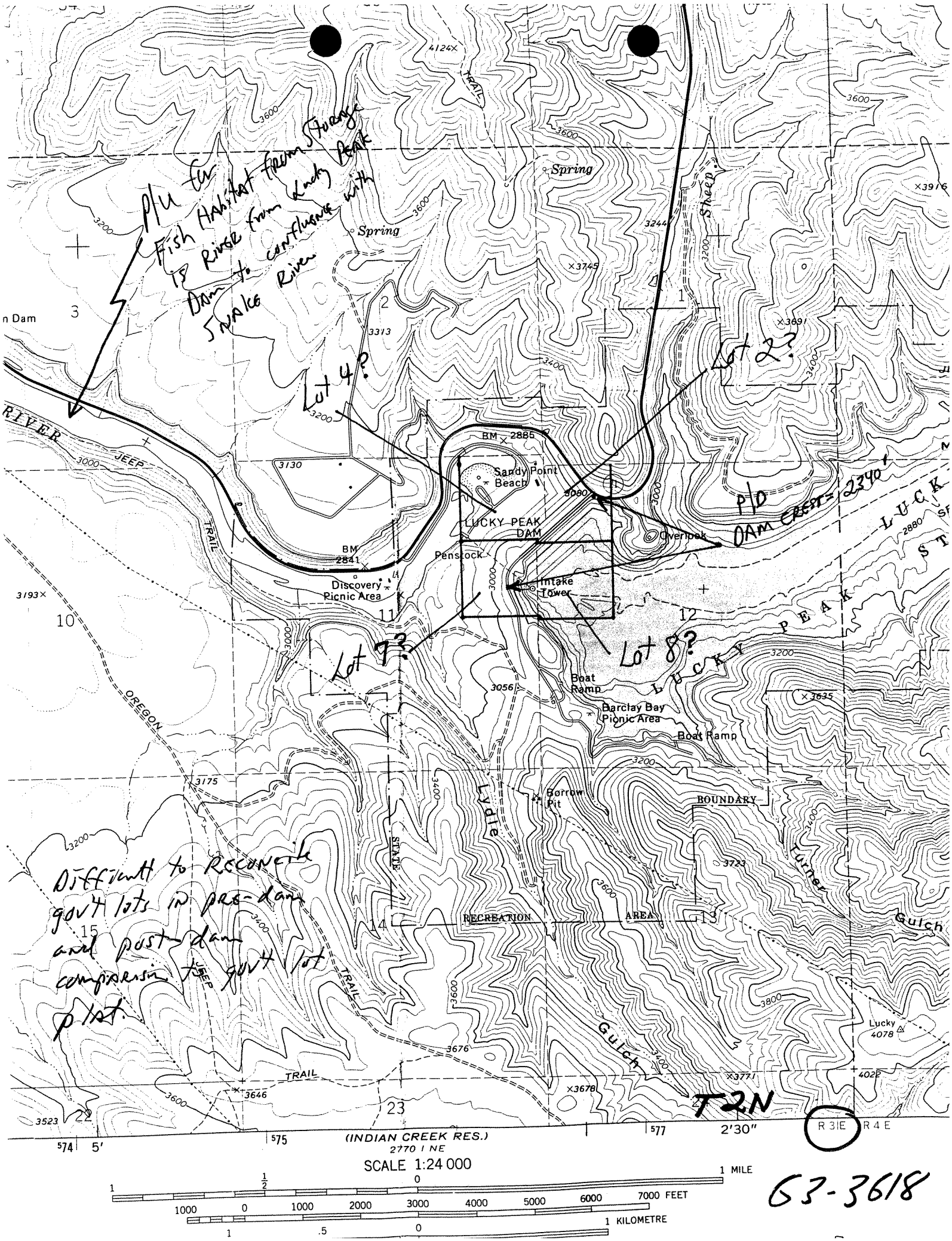
~~GW~~ Dist? _____
~~Water~~ Msmt. Dist? _____
~~Crit~~. GWMA? _____
~~GW~~MA?_____
Government Lots? yes - pld in GLT per Atc View —

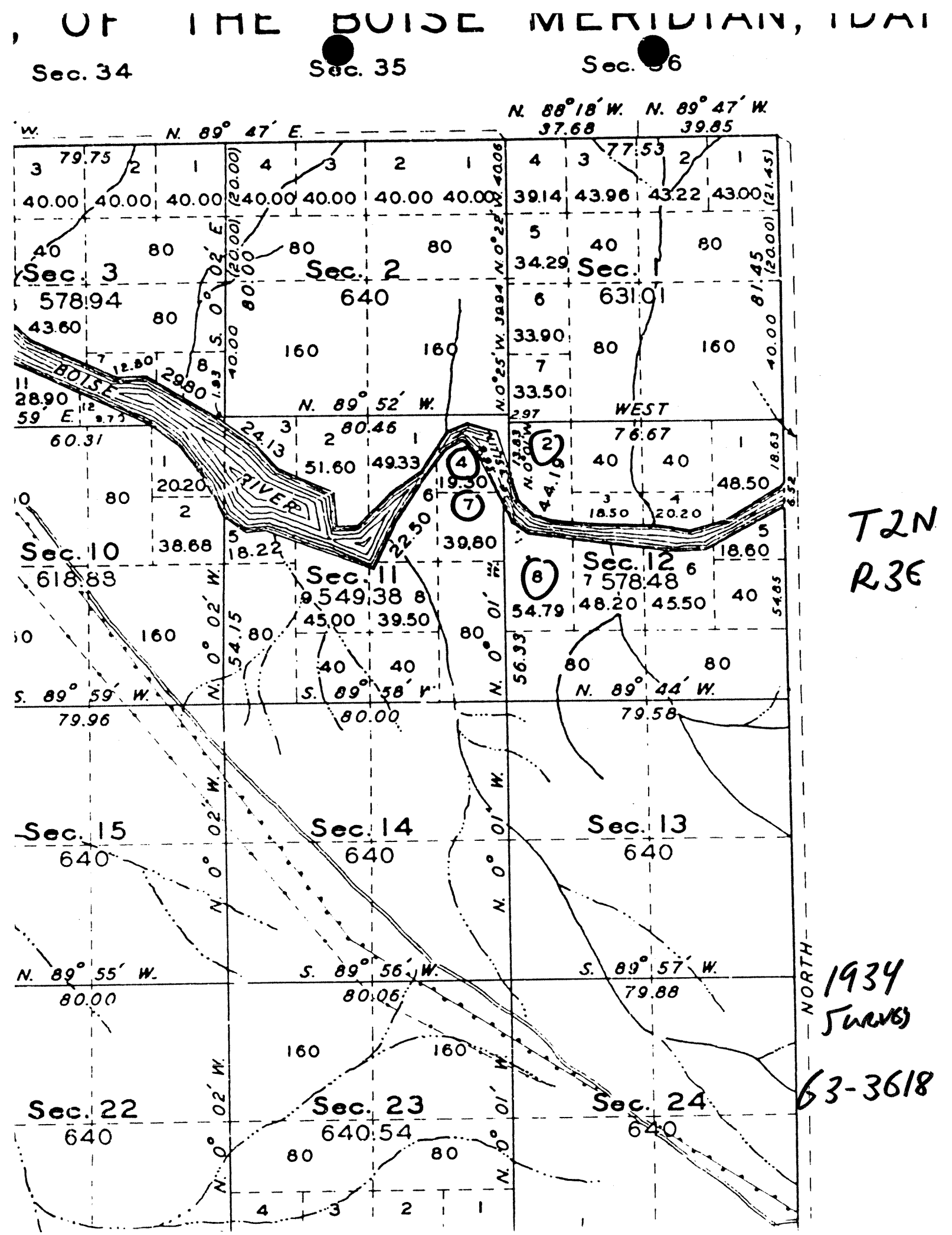
Advance Priority? ____yes
__V__no If yes, explain why below.

SRBA Claim? yes – in process

Adjust memo ____

Amend Letters _____**P87, S06** **Second Amendment Notice** _____ **S06**


p/u Ex Fish Habitat from Storage to River from Lucky Peak Dam to confluence with Snake River
Lot 4?
Lot 2?
Lot 7?
Lot 8?
p/o DAM EXEST = 2340'
Difficult to RECONCILE govt lots in pre-dam and post-dam comparison to govt lot plat.
T2N
R3E
R4E
Sandy Point Beach
LUCKY PEAK DAM
Overlook
Penstock
Intake Tower
Discovery Picnic Area
Boat Ramp
Barclay Bay Picnic Area
Boat Ramp
Borrow Pit
RECREATION AREA
BOUNDARY
Lydle
Turner Gulch
Gulch
Sheep
Spring
Spring
TRAIL
JEEP TRAIL
STATE
OREGON
RIVER
n Dam
(INDIAN CREEK RES.)
2770 I NE
SCALE 1:24 000
1 MILE
7000 FEET
1 KILOMETRE
63-3618


, OF THE BOISE MERIDIAN, IDAH
Sec. 34
Sec. 35
Sec. 36
N. 89° 47' E.
N. 88° 18' W.
N. 89° 47' W.
37.68
39.85
Sec. 3
578.94
Sec. 2
640
Sec. 1
631.01
BOISE
RIVER
N. 89° 52' W.
WEST
Sec. 10
618.88
Sec. 11
549.38
Sec. 12
578.48
Sec. 15
640
Sec. 14
640
Sec. 13
640
Sec. 22
640
Sec. 23
640.54
Sec. 24
640
NORTH
T2N
R3E
1934
Surveys
63-3618

MEMORANDUM

TO: File

FROM: Steve Lester

DATE: February 19, 2002

RE: Beneficial Use Examination for Permit No. 63-3618

An in-office exam was conducted in late 1993 for the Lucky Peak permit. The exam report was based on IDWR file information explained in this memorandum.

Several amendments were approved through the early 1990s. The database reflects the current state of the permit. Proof of beneficial use was filed in 1986 with Ed Thomas (now retired) listed as the exam contact person. Phil Graf replaced Mr. Thomas as noted in Attachment A. Gail McGarry and/or Ruth Page are current contacts per Attachment B. Proper contact was established with the permit holder to complete the exam report.

Overlap

The permit was claimed in the SRBA under the same water right number. The claim listed the same total amount of water but stated somewhat different individual storage uses than the permit. The adjudication claim noted 224,886 irrigated acres served by the right. Competing adjudication claims for this right include 63-3618A by Pioneer Irrigation District and 63-3618B by Settlers Irrigation District.

BOR claimed right 63-5263 for 17,000 af "bank storage" at Lucky Peak. The claim lists irrigation storage components but alleges to increase storage capacity at the reservoir to 324,000 af.

Permits 63-9019 and 63-11069 use reservoir water to generate power at Lucky Peak. Power is produced as storage water is released for other uses authorized by permit 63-3618.

Overlapping rights/claims do not present licensing problems in 63-3618. Questions about bank storage and maximum acres irrigated with reservoir water can be addressed in the SRBA.

Point of diversion and storage capacity

Dam Safety file D63-3618 contains sufficient information to document the storage dam at Lucky Peak. Attachment C summarizes dam safety data. Lucky Peak is a 240' earthen structure with a 2,340' crest. The dam can impound 307,000 af (Attachments C and D; see 1981 BOR memo at end of D). Reservoir water is released to the Boise River as needed. Irrigation storage water is withdrawn from the river at numerous diversions for distribution throughout the Boise Project. These withdrawals remain under watermaster control. Fish habitat (aka streamflow maintenance) releases serve the river channel from the dam to the mouth of the river. The reservoir holds about 28,800 af as inactive storage ("dead pool") according to the 1981 BOR memo in Attachment D.

The point of diversion includes the dam crest within three tracts. Government lots are difficult to precisely define as noted by comparing the 1934 government lot plat to the current river/reservoir configuration. It is probably best not to list government lots for this reason.

Beneficial use rules and acreage determination

Beneficial Use Examination Rule 1 allows deviations from beneficial use standards to meet licensing requirements. Rule 35 requires an accurate determination of the irrigated acres for a project exceeding 25,000 acres. A specific P/U land list is not required in these large irrigation cases.

The permit does not appear to be limited to a discreet number of acres although conflicting limits are suggested by the file history. Consider the following factors:

- Original application for permit and 1964 permit approval did not list acres.
- 1985 amendment did not define acres.
- 1987 amendment noted 164, 920 acres.
- 1989 adjudication claim listed 224,886 acres (see claim remarks).
- 1990 amendment listed 277,000 acres.
- Amendment approvals did not limit the number of acres. Conditions of approval in the amendments did not address acreage limits.
- A 1994 meeting between BOR, IDFG, the Boise River Watermaster and IDWR noted 277,000 acres in the project but 224,886 acres served by contract (see meeting notes from 1-5-94 in Attachment D).
- Attachment B (October 2001) describes supplemental use for up to 324,300 acres.

- The number of acres is not limited by current permit information.

- Acreage limits for Arrowrock and Anderson Ranch Reservoirs (63-303, 63-3613 and 63-3614) remain undefined or not necessarily accurately determined.

I asked Adjudication, Allocation and Technical Services Bureau Chiefs about accurate acreage data available for the Boise Project. Dave Tuthill mentioned shape files have been created for Boise Project delivery organizations but total acres have not been quantified yet. Acres should be tallied next year to prepare the Director's Report for the area below Lucky Peak. Glen Saxton doubted Allocation had such a record. Bob Sutter for Paul Castelin recalled irrigation exceeding 275,000 acres per BOR data. An accurate determination of acres cannot be fully documented at this time but the file history suggests a maximum of 277,000 to 324,300 acres served by the Boise Project.

It is difficult to find merit in delaying the license until SRBA acreage calculations have been completed. A license could be issued without an acre limit or could be issued with some limit. Although a limit based on accurate data cannot be determined yet, the most flexible limit based on unverified data is BOR's 324,300 acres within the Boise Project. An incorrect acre limitation could be revised by a future transfer to expand storage water to more acres (specifically approvable in I. C. § 42-222).

A license without an acre limit would be most consistent with the permit and can be accommodated within Beneficial Use Rule 1. Allow the SRBA to determine the acre limit if necessary. Additionally, a transfer could be processed to define an acre limitation for the license during SRBA review or after a partial decree is issued.

Lucky Peak storage water is used as needed. Contracts and watermaster control provide reasonable methods to control water used under this permit, regardless of the number of acres eligible to receive storage water.

Water use

The Boise River system produces about two million af in an average year. Lucky Peak is the most downstream of three major storage facilities and provides the most expensive storage water for the users. These factors result in Lucky Peak water being used last and/or held for carry over in at least some circumstances. [1]

Lucky Peak can store 307,000 af if conditions allow. Weather, carry over from prior years, flood control requirements, water demand and other variables are involved. The storage portion of the reservoir permit does not present licensing complications.

[1] Personal communication from Watermaster Lee Sisco, February 19, 2002.

What about use from storage? Is it necessary to measure actual use of storage water to issue a license? Is it even possible to make this determination? Management of and accounting for the Boise River storage system is complex. It would be a painstaking and perhaps even futile exercise to comb through all the watermaster records to determine if the permitted uses from storage had occurred in the last few decades (the records do not clearly state such information and are complicated by numerous factors, such as carry over, found in complex storage scenarios). It is possible that the maximum use from storage has not been needed.

We know water is released from storage for irrigation and fish habitat uses dictated by a complex array of factors. Fish habitat use occurs at the reservoir and in the river below Lucky Peak. Irrigation takes place within the Boise Project. Failure to release water from storage should not diminish the permit in the context of overall river management. Instead, rely on BOR information to understand distribution of Lucky Peak storage water. BOR provided Attachment E in 1994, and the attachment offers the best available guide to understanding use of the storage water.

Some of the information in Attachment E is confusing but a careful reading suggests four uses of Lucky Peak storage. Disregard the "bank storage" water for now because it exceeds the permit (recall 63-5263 covers bank storage). Flood control cannot be recognized as a beneficial use unless IDWR's standard has changed. [2]

Three uses of the storage water can be licensed as follows based on the ability to store water and release water from storage as conditions and BOR contracts warrant:

- 111,950 af contracted for irrigation use.

- 152,300 af of contracted and uncontracted water for fish habitat use ("streamflow maintenance"), which includes 50,000 af contracted to IDFG for winter flow releases.

- 28,800 af for recreation storage (unlike the previous two uses, does not include use from storage), which is the inactive storage in Lucky Peak.

The three storage uses total 293,050 af, which is 13,950 af short of the reservoir capacity of 307,000 af. The "missing" 13,950 af represent the previously mentioned flood control parameter. The following recommendations are consistent with the flexibility noted in Beneficial Use Rule 1.

[2] IDWR letter to BOR dated May 15, 1984 in reference to an amendment application that listed 13,950 af for flood control. IDWR suggested this use be listed in the permit remarks.

Recommendations

The license should be issued as follows with standard conditions and some clarifications.

Storage Use/Amount/Period	Use *from* Storage/Amount/Period
Irrigation / 111,950 afa / all year	Irrigation / 111,950 afa / March 1-Nov. 15
Fish habitat / 152,300 afa / all year	Fish habitat / 152,300 afa / all year
Recreation / 28,800 afa / all year	(no recreation from storage) [3]
Total storage 293,050 afa	Total from storage 264,250 afa.

Total amount of water in this right is limited to 307,000 acre feet per year.

Place of use for irrigation is the service area of the Boise Project.

Place of use for fish habitat ("streamflow maintenance") includes Lucky Peak Reservoir and the Boise River channel from Lucky Peak Dam to the confluence with the Snake River. Water for fish habitat use includes 50,000 acre feet contracted to the Idaho Department of Fish & Game. "Natural flow within this reach in excess of the stored water released under this right is subject to appropriation." [4]

Place of use for recreation is Lucky Peak Reservoir.

Use of water under this right is subject to contracts administered by the right holder.

Use of water under this right is subject to control of the Boise River Watermaster.

Flood control can include 13,950 acre feet of Lucky Peak Reservoir water.

---

[3] It is conceivable although improbable to totally empty the reservoir and achieve "recreation from storage" use. This suggests a possible adjustment to the license recommendation.

[4] Quote from item #1 in DRT's memo of March 21, 1994. See Page 1 of Attachment D.

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

December 21, 1993

Mr. Phil Graf
Pacific Northwest Region
Bureau of Reclamation
1150 N. Curtis Rd.
Boise, ID 83606

RE: Water Right Permit No. 63-03618 (Lucky Peak Reservoir)

Dear Mr. Graf:

I understand through contacting the Central Snake Project Office on Broadway that you have replaced Mr. Ed Thomas as the contact person dealing with water right issues for BOR. This letter regards the status of the storage water right for Lucky Peak Reservoir.

Permit No. 63-03618 (old no. R-1183) provides storage rights and use of storage for 307,000 acre-feet of public water via Lucky Peak Reservoir. The right is at the stage where it can be licensed based on information to be provided through your office. Enclosed is a copy of a water right profile report that summarizes the permit.

In order to issue a water right license, this office needs a list of the entities with contracted storage water from the reservoir. Please provide the following information in your response:

a) Names of organizations having use of contracted storage water;

b) Amount in acre-feet of contracted storage per organization; and

c) Beneficial use of each block of contracted water per organization, e.g. irrigation, recreation, and so on.

I will use the information to prepare a license recommendation report that will be used by our licensing staff to perfect the above-referenced water right.

A meeting to discuss Boise River water availability and uses is tenatively scheduled at the department's state office at 1301 N. Orchard for 10:00 a.m. on Tuesday, January 11, 1994. If at all possible, the information is requested before the meeting. Your response can be directed to me at the regional office or provided directly by you or other BOR staff to me at the January meeting.

Attachment A

Please let me know if I am mistaken in assuming that you have taken over for Ed Thomas concerning water right questions for the reservoir. I can be reached at 334-2190 if you would like to call me about this or any other water right issues.

Thank you for your help in this matter.

Sincerely,

Steve Lester
Water Rights Supervisor

Enclosure

A2

RECEIVED
FEB 2 2 2002
Department of Water Resources

United States Department of the Interior

BUREAU OF RECLAMATION
Pacific Northwest Region
1150 North Curtis Road, Suite 100
Boise, Idaho 83706-1234

RECEIVED
OCT 2 2 2001
WATER RESOURCES
WESTERN REGION

IN REPLY
REFER TO:

PN-3110
WTR-1.10

OCT 1 9 2001

Mr. Steve Lester
Idaho Department of Water Resources
2735 Airport Way
Boise ID 83705-5082

Subject: Lucky Peak Water Right Licensing

Dear Mr. Lester:

This letter is to provide you with written documentation of the phone conversation you had with Ruth Page of my staff on October 17, 2001 regarding the above subject. The following language was suggested for use in the license: The rights to use water for irrigation under this license shall be used to supplement lands having existing water rights in the Boise Valley, but in no event shall exceed 324,300 acres. This is based on the acreage figure provided in the 1986 Water Masters Report Basin 63. A copy of the chart is enclosed.

The Bureau of Reclamation believes this language will allow for the continued contracting of supplemental water supplies to various entities in the Boise Valley. The quantities specified for the types of use originally submitted to the Idaho Department of Water Resources on August 15, 1986, on the Completion of Beneficial Use Card shall remain the same i.e., storage for irrigation and irrigation from storage 111,950 acre-feet, storage for streamflow maintenance and streamflow maintenance from storage 152,300 acre-feet, and storage for recreation 28,800 acre-feet.

If you have any questions please contact Ruth Page at 208-378-5382.

Sincerely,

E. Gail McGarry

E. Gail McGarry
Program Manager
Water Rights & Acquisition

Enclosure

Attachment B

Excerpt from 1986 Annual Report from Water Master Basin 63

BOISE VALLEY CANALS AND ACREAGE — CHART NO. 10

AIKEN	236 ACRES	ISLAND HIGH LINE	945 ACRES
ANDREWS	1068 "	LEMP DITCH	300 "
BALLENTYNE	763 "	LITTLE PIONEER	1336 "
BAXTER	200 "	LOWER CENTER POINT	880 "
BOISE CITY	1828 "	MACE & CATLIN	536 "
BOISE PROJECT BOARD OF CONTROL		MACE & MACE	80 "
BIG BEND IRRIG. DIST.	1724 "	MAMMON	468 "
BOISE-KUNA IRRIG. DIST.	48,629 "	McCONNEL ISLAND	1600 "
NAMPA & MERIDIAN IRRIG. DIST.	40,304 "	McMANUS & TEATER	168 "
NEW YORK IRRIG. DIST.	17,728 "	MIDDLETON MILL	4400 "
WILDER IRRIG. DIST.	56,535 "	MIDDLETON WATER	5180 "
TOTAL - BOARD OF CONTROL	164,920 "	MISCELLANEOUS	838 "
BOISE VALLEY	2729 "	NEW DRY CREEK	3059 "
BOONE	517 "	NEW UNION	688 "
BOWMAN-SWISHER	424 "	PARMA DITCH	602 "
BUBB (SOUTH BOISE MUTUAL)	1057 "	PENITENTIARY	321 "
*CALDWELL HIGH LINE	11,917 "	PIONEER IRRIG. DIST.	23,974 "
CAMPBELL (CANYON DITCH)	802 "	PIONEER DIXIE	3000 "
CANYON COUNTY	3957 "	RIDENBAUGH	26,877 "
CAPITAL VIEW	600 "	RIVERSIDE IRRIG. DIST.	10,645 "
CONWAY-HAMMING	259 "	ROEDEL	160 "
DAVIS & LITTLE DAVIS	634 "	ROSSI MILL	512 "
EUREKA WATER CO. #1	1800 "	SEBREE	15,500 "
EUREKA DITCH CO. #2	2625 "	SEVEN SUCKERS	70 "
FARMERS UNION	8372 "	SETTLERS	12,322 "
GRAHAM-GILBERT	200 "	SIEBENBERG	646 "
HAAS	367 "	THURMAN MILL	1719 "
HART-DAVIS	453 "	UPPER CENTER POINT	641 "
		WARM SPRINGS DITCH	454 "
		TOTAL	324,239 ACRES

DRAINAGE WATER (NOT DIVERTED FROM BOISE RIVER)

BLACK CANYON IRRIGATION DISTRICT	6,894 ACRES
CALDWELL IRRIGATION DISTRICT	755 "
MORELAND & VIAL (DIXIE DRAIN)	640 "
	8,289 ACRES

GRAND TOTAL ..... 332,528 ACRES

THIS ACREAGE IS BASED, IN SOME INSTANCES, UPON ACTUAL SURVEYS, AND IN OTHER CASES UPON THE ACREAGE AS DETERMINED AT THE TIME OF THE STEWART DECREE, AND IS THE BEST INFORMATION AVAILABLE AT THE PRESENT TIME. IT WAS ORIGINALLY COMPUTED FEBRUARY 14, 1941, BUT HAS BEEN REVISED SEVERAL TIMES, PARTICULARLY TO REDUCE RIVER BOTTOM ACREAGES TO CONFORM TO STEWART DECREE ACREAGES AS DETERMINED BY SPECIAL COMMITTEE, AND TO ACCOMODATE TRANSFERS FROM ONE CANAL OR USER TO ANOTHER.

RIDENBAUGH REPRESENTS OLD LANDS WITHIN THE NAMPA & MERIDIAN IRRIGATION DISTRICT THAT ARE WATERED BY THE OLD RIDENBAUGH RIGHTS IN THE STEWART DECREE. THE BALANCE OF THE NAMPA & MERIDIAN IRRIGATION DISTRICT LANDS ARE INCLUDED UNDER THE BOARD OF CONTROL.

*3960 ACRES ARE WATERED WITH LIVE WATER. THE BALANCE OF THE WATER COMES FROM SEVERAL DRAINS.

B2

SUMMARY SHEET

BASIN	:	63
DAM_NUMBER	:	3618
NAME_OF_DAM	:	LUCKY PEAK
COUNTY	:	ADA
STREAM	:	BOISE RIVER
REGION	:	W
PURPOSE	:	IFP
RISK_CATAGORY	:	1
SIZE_CATAGORY	:	1
QUARTER_QUARTER_SEC	:	SENE
SECTION	:	11
TOWNSHIP	:	02N
RANGE	:	03E
LATITUDE	:	43.5279
LONGITUDE	:	116.0587
MAP_CODE	:	' 63-3618'52000*
DAM_TYPE	:	EARTH
STORAGE_AC-FT	:	307000
HEIGHT_FT	:	240.0
DRAINAGE_SQ_MI	:	2650.0
RES_AREA_ACRES	:	2820
YEAR_COMPLETED	:	1954
CREST_ELEV_MSL	:	3078
CREST_LENGTH_FT	:	2340
SPILL_TYPE	:	RKCHAN
SPILL_DEPTH_FT	:	18.0
SPILL_CAP_CFS	:	93300
OUTLET_TYPE	:	STEEL
OUTLET_SIZE_IN	:	0
OUTLET_CAP_CFS	:	30500
INFLOW_DESIGN_FLOOD	:	PMF
IDF_MAGNITUDE_CFS	:	0
RELEASE_CAPACITY_CFS	:	0
CONDITION	:	EX
INSPECTION_DATE	:	1088
CERT_EXPIRATION	:	1190
LAST_RISK_EVALUATION	:	1086
CALL_UP_DATE	:	
CERT_ISSUE_DATE	:	28-Nov-88
INSPECTION_INTERVAL	:	
RESTRICTED	:	
PHASE1_INSPECT_DATE	:	
OPERATIONS_PLAN	:	Y
SEISMIC_ANALYSES	:	Y
ORDERS_ISSUED_DATE	:	
JOINT_INSPECTION	:	USCOE
QUADRANGLE_NUMBER	:	X60
QUADRANGLE_NAME	:	LUCKY PEAK
QUADRANGLE_SCALE	:	024000
DAM_OWNER	:	U S ARMY CORPS OF ENGINEERS
ADDRESS_LINE_1	:	ENGINEERING DIVISION
ADDRESS_LINE_2	:	BLDG 602 CITY-COUNTY AIRPORT
CITY	:	WALLA WALLA
STATE	:	WA
ZIP_CODE	:	99362 0000
PHONE_NUMBER	:	3430671
AREA_CODE	:	208

GENERAL_REMARKS : N O T E: POWER PRODUCTION ADDED 1987. PART OF RESERVOIR SHOWN ON QUAD X61. SEND CORRESPONNDENCE TO MARVIN BARAMMER, CHIEF OF ENGINEERING DIVISION. PHONE = DAVE BROWNELL, PROJECT ENGINEER.

TECHNICAL_REMARKS : SPILLWAY HAS CONCRETE CREST. SPILLWAY CAPACITY IS WITH 4.0' FREEBOARD. OUTLET IS 23' DIA STEEL PIPE WITH 2-10 x 23' UPSTREAM GATES AND 6-10' DOWNSTREAM GATES.

MAINTENANCE : ADVISE DEPARTMENT WHETHER THE C O E HAS COMPLETED ITS FINAL REVIEW AND APPROVAL (CERTIFICATION) OF THE HYDROELECTRIC INSTALLATION.

RESTRICTIONS :

ALTERNATE_CONTACTS :

Attachment C

File

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

MEMORANDUM

THRU: Norm Young

TO: Wayne Haas

FROM: Dave Tuthill DRT

DATE: March 21, 1994

RE: Conveyance of Boise River Maintenance Storage Flows Through the Boise River

The attached letter dated January 21, 1994, proposed a mechanism for clarifying the conveyance of Boise River maintenance storage flows through the Boise River, and requested a response from the recipients no later than February 11, 1994. The purpose of this memorandum is to convey to you the results of this process.

This office received two written responses to the letter, from the Idaho Department of Fish and Game and the U.S. Bureau of Reclamation. In both cases the proposed solution was found to be acceptable, as shown in the attached copies.

Accordingly, we anticipate proceeding toward implementation of the proposed solution by taking the following steps.

1. A condition will be recommended for the licensing of water right No. 63-03618, clarifying the place of use of the streamflow maintenance water to be within the channel of the Boise River from Lucky Peak downstream to the confluence with the Snake River; provided that natural flow within this reach in excess of the stored water released under this water right is subject to appropriation.

2. Pursuant to Section 42-801, Idaho Code, the BOR and IDFG shall provide written instructions to the Department for conveyance to the Watermaster regarding delivery of the Lucky Peak streamflow maintenance storage water.

Please advise if this solution is acceptable to the Idaho Water Resource Board.

Attachment D

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

MEMORANDUM

THRU: Norm Young

TO: Wayne Haas

FROM: Dave Tuthill DT

DATE: February 17, 1994

RE: Conveyance of Boise River Maintenance Storage Flows Through the Boise River

The attached letter dated January 21, 1994, proposed a mechanism for clarifying the conveyance of Boise River maintenance storage flows through the Boise River, and requested a response from the recipients no later than February 11, 1994. The purpose of this memorandum is to convey to you the results of this process.

This office received two written responses to the letter, from the Idaho Department of Fish and Game and the U.S. Bureau of Reclamation. In both cases the proposed solution was found to be acceptable, as shown in the attached copies.

Accordingly, we anticipate proceeding toward implementation of the proposed solution by taking the following steps.

1. A condition will be recommended for the licensing of water right No. 63-03618, clarifying the place of use of the streamflow maintenance water to be within the channel of the Boise River from Lucky Peak downstream to the mouth.

2. Pursuant to Section 42-801, Idaho Code, the BOR and IDFG will be required to should provide written instructions to the Department for conveyance to the Watermaster regarding delivery of the Lucky Peak streamflow maintenance storage water.

Please advise if this solution is acceptable to the Idaho Water Resource Board.

D2

IDAHO FISH & GAME
600 South Walnut / Box 25
Boise, Idaho 83707-0025

Cecil D. Andrus / Governor
Jerry M. Conley / Director

RECEIVED
FEB 0 7 1994
WATER RESOURCES
WESTERN REGION

February 4, 1994

Mr. David Tuthill, Manager
Western Region Office
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

Re: Conveyance of Boise River Maintenance Storage Flows Through the Boise River

Dear Dave:

We have reviewed your letter dated January 21, 1994 about the above-referenced matter, and have the following comments. We believe the letter captures the contents of the meeting quite well. We agree to provide written instructions to the Boise River Watermaster regarding delivery of Lucky Peak streamflow maintenance storage water on an annual basis. We thank you for assistance in crafting a solution to our concerns for maintaining adequate flows in the Boise River. If you have questions regarding this matter, please contact Cindy Robertson at 234-2597.

Sincerely,

Cal Groen, Chief
Natural Resources Policy Bureau

CG::CR:tlv

cc: Scott Grunder
Marti Bridges
Steve Goddard

P3

United States Department of the Interior

BUREAU OF RECLAMATION
Central Snake Projects Office
214 Broadway Avenue
Boise, Idaho 83702-7298

IN REPLY
REFER TO:

SRAO
Wtr-4.00

February 2, 1994

RECEIVED
FEB 0 7 1994
WATER RESOURCES
WESTERN REGION

Mr. Dave Tuthill, Jr., P.E.
Manager, Western Regional Office
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082

Subject: Conveyance of Boise River Maintenance Storage Flows Through the Boise River

I concur with the observations and conclusions in your letter of January 21, 1994 regarding this subject.

Sincerely,

Jerrold D. Gregg
Project Superintendent

D4

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 21, 1994

Distribution: See Below

RE: Conveyance of Boise River Maintenance Storage Flows Through the Boise River

Dear Interested Party:

During the past several months the issue of river maintenance flows in the Boise River has been a topic of discussion at meetings of the Idaho Water Resource Board. One outcome of the discussion was the identification of a need to clarify the mechanism for conveying river maintenance stored flows through the Boise River. On January 5, 1994, this office conducted a meeting to discuss this matter with representatives from the Idaho Department of Fish and Game (IDFG) (Cindy Robertson and Steve Goddard), the U.S. Bureau of Reclamation (BOR) (Jerry Gregg, Lori Postlethwait and Rick Wells), Water District 63 (Lee Sisco), and IDWR (Frank Sherman, John Beal, Steve Lester and Dave Tuthill). The purposes of this letter are to document the results of the meeting, propose a solution for clarifying this issue, and provide an opportunity for review of the issue by legal staffs representing each of the impacted entities.

The January 5, 1994 meeting consisted of discussions regarding the Lucky Peak Reservoir water right, river maintenance storage release agreements, and statutory provisions regarding delivery of storage water. The results of these discussions are as follows:

Water Right

Water Right No. 63-03618 is a water right permit for storage in Lucky Peak Reservoir. The permit was originally issued with a remark which serves as a condition of approval as follows:

> This permit is issued on condition -- "That the yield of water from 50,000 acre-feet of space be available for maintaining minimum winter time flow in the Boise River below Boise Diversion Dam under a release pattern established from time to time by the Director of the Idaho Fish and Game Department."

DS

This permit was amended in 1985 to add 102,300 of dedicated storage for stream flow maintenance purposes, so the amount of water for stream flow maintenance purposes totals 152,300 acre-feet. Proof of Beneficial Use was submitted for the permit on September 22, 1986, and since that date the permit has been amended to temporarily adjust the storage amounts in Lucky Peak Reservoir available for streamflow maintenance and irrigation while the total storage amount has not changed. The beneficial use field examination for the permit was conducted on October 27, 1993. Accordingly, the Western Regional Office staff are presently preparing recommendations for licensing of the permit. This process provides an opportunity to include conditions of approval that direct the use of water stored under this water right.

In general, each water right in Idaho must consist of two factors -- diversion and beneficial use. Therefore, in this situation Lucky Peak Dam provides the diversion works and the beneficial use is streamflow maintenance throughout the Boise River channel. This situation is different from the instream flow water rights described in Chapter 15, Title 42, Idaho Code. Instream flow water rights described in this chapter have no diversion and thus can be initiated only by the Idaho Water Resource Board filing an appropriation of water. Thus, the storage and release process conducted with Lucky Peak storage represents a streamflow maintenance water right that can be held by an entity other than the Board, in this case BOR.

Storage Releases

The only known written guidance regarding release of the streamflow maintenance water is a BOR memorandum dated March 8, 1981 from the Regional Planning Officer to the Project Superintendent of the Central Snake Planning Office. This memorandum includes the following guidance:

> The flow maintenance space of 102,300 acre-feet would be used to maintain an 80 cfs minimum Lucky Peak Lake release to the Boise River, and the Idaho Department of Fish and Game would use its existing space (50,000 acre-feet) to provide an additional 70 cfs, producing the total desired minimum flow of 150 cfs. If the full 150 cfs of Lucky Peak Lake flow release could not be maintained, the 80 cfs flow release would be provided whenever water is available. If water supplies were not available in the uncontracted space to make the 80 cfs river release, the Department of

> Fish and Game could choose to use its water supplies to maintain all or a part of the 80 cfs river release. If adequate water supplies were available, the Department of Fish and Game would have the option of using its water to meet other fish flow needs, such as the 225 cfs flow release needed during October and November for brown trout spawning.

Participants at the meeting indicated that during the fall of each year, representatives from IDFG and BOR meet to plan Lucky Peak storage releases for the upcoming winter months based on availability of water supplies. These requirements are communicated to the Boise River watermaster.

Statutory Provisions

Chapter 8, Title 42, Idaho Code, is entitled "Distribution of Stored Water." Section 42-801 provides for conveyance of stored water and indicates that the owner of the reservoir shall in writing notify the Department of Water Resources regarding the dates and amounts of release of stored water and the purpose of the use. The Department is to convey these written instructions to the Watermaster. Section 42-802 provides protection of the stored water for the uses to which it is supposed to be placed.

Conclusions

Based on this information, the meeting participants drew the following conclusion:

1. A condition should be added to Water Right No. 63-03618 as it is licensed, clarifying the place of use of the streamflow maintenance water to be within the channel of the Boise River from Lucky Peak downstream to the mouth.

A second conclusion, resulting from discussion following the meeting, is as follows:

2. Pursuant to Section 42-801, Idaho Code, the BOR and IDFG should provide written instructions to the Department for conveyance to the Watermaster regarding delivery of the Lucky Peak streamflow maintenance storage water.

Summary

The recipients of this letter are invited to review the information provided herein and to respond with any concerns or objections no later than Friday, February 11, 1994.

Sincerely,

David R. Tuthill, Jr., P.E.
Manager, Western Regional Office

Distribution: IDFG (Cindy Robertson and Steve Goddard)
U.S. Bureau of Reclamation (Jerry Gregg, Lori Postlethwait and Rick Wells)
Water District 63 (Lee Sisco)
IDWR (Frank Sherman, John Beal, Steve Lester, Phil Rassier, Norm Young, Wayne Haas, Keith Higginson)

D8

CINDY ROBERTSON
ID DEPT OF FISH & GAME
600 S WALNUT
BOISE ID 83707

MIKE SATTERWHITE
327 SKYLINE DR
LEWISTON ID 83501

STEVE GODDARD
ID DEPT OF FISH & GAME
600 S WALNUT
BOISE ID 83707

BRENT J BELL
3342 W 4000 N
REXBURG ID 83440

JERRY GREGG
US BUREAU OF RECLAMATION
214 BROADWAY
BOISE ID 83702

KENNETH E HUNGERFORD
2005 ORCHARD AVE
MOSCOW ID 83843

RICK WELLS
US BUREAU OF RECLAMATION
214 BROADWAY
BOISE ID 83702

J DAVID ERICKSON
1445 RIVER RD
BUHL ID 83316

LORI POSTLETHWAIT
1150 N CURTIS RD
BOISE ID 83706

JOSEPH L JORDAN
PO BOX 102
FRUITVALE ID 83620

LEE SISCO
214 BROADWAY
BOISE ID 83702

FRANK SHERMAN
IDWR
1301 N ORCHARD
BOISE ID 83706

DAVE F RYDALCH
5669 W 7000 N
ST ANTHONY ID 83445

JOHN BEAL
IDWR
1301 N ORCHARD
BOISE ID 83706

CLARENCE PARR
RTE 2 BOX 2128
HEYBURN ID 83336

STEVE LESTER
IDWR
2735 AIRPORT WY
BOISE ID 83705

GENE M GRAY
2393 WATTS LN
PAYETTE ID 83661

42-801. Conveyance of stored water through natural channel -- Appointment of special deputy and assistants. Whenever the owner of a reservoir shall desire to use the bed of a stream, or a natural water course, for the purpose of carrying stored water, he shall in writing notify the department of water resources, giving the date when it is proposed to discharge the water, its volume in acre feet, and in cubic feet per second at the point of discharge, and the persons and ditches entitled to its use. The department shall then appoint a special deputy, unless a state watermaster has already been appointed to deliver the waters from said stream, in which event the appointed watermaster and his assistants may be instructed to make the delivery of the stored water without further appointment, whose duty it shall be to adjust the headgates of all ditches not entitled to the stored water, and in such manner that those having the right to the use of such water shall secure the volume to which they are entitled. For the purpose of delivering such stored water the deputy appointed by the department of water resources may employ such number of assistants as, with the approval of the department, he may deem necessary. The owner of any reservoir proceeding under the provisions of this section shall pay to the special deputy and to each assistant a salary as determined by the director of the department of water resources, or a salary and expenses as negotiated with the owner of the said stored water and approved by the director of the department of water resources, or pay to the water district, if there is one, a sum based upon the cost of delivering a unit of water. Said charge by the water district will be determined and collected in the same manner as prescribed in chapter 6, title 42, Idaho Code, for compensating the watermaster for delivery of natural flow water.

42-802. Conveyance of stored water -- Penalty for interference -- Duty of special deputy. After the special deputy and his assistants shall have adjusted the headgates of all ditches, the owners of which are not entitled to the use of such stored water as provided in the preceding section and before such stored water shall have passed the headgates so adjusted, any person who shall raise or tamper with any such headgate in such manner as to misappropriate any portion of such water to his own use and benefit whether he be the owner of such headgate or not, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than $100 together with imprisonment in the county jail for ten (10) days; and not more than $2000 or by imprisonment in the county jail not to exceed six (6) months, or by both such fine and imprisonment.

Whenever the special deputy or any assistant shall discover any person in the act of committing a misdemeanor declared in this section, he shall arrest such person and turn him over to the sheriff of the county in which the misdemeanor was committed and he

shall also file with the county attorney of such county an affidavit setting out the facts with reference to the commission of such misdemeanor.

D11

Form No. 211a
11/78

State of Idaho
Department of Water Resources

AMENDMENT ANALYSIS SHEET

INITIAL REVIEW BY: DNT

Right Number 63-3618 Applicant U.S. BOR

Purpose of Amendment: ☐ Change point of diversion. ☐ Add diversion point(s).
☐ Increase amount. ☐ Change place of use. ☒ Other Change Nature of use

CHECK:

☒ Description of amended point(s) of diversion.
☑ Amount, nature and period of use. If increased, delay date of priority.
☑ Description of amended places of use. If expanded, delay date of priority.
☑ Ownership of point of diversion and place of use.
☐ Map. None
☑ Signature (must be permit holder).
Voucher ☐ Fee.
☒ Existing water rights from the same source, amended place of use.
None ☐ Right number(s) _____
☑ Yes ☐ No Should amendment be advertised?
☐ Yes ☑ No Should date of priority be delayed? If yes, to what date? _____

FINAL REGIONAL PROCESSING REVIEW:

☑ Affidavit of publication received.
☑ Amendment published correctly.
☐ Protests processed. None
☒ Approve.
☐ Deny.

Conditions ① The 25,905 acre-feet must be allocated based on need to those who do not have an adequate water supply from other sources including hold over storage from prior years. ② Spaceholders who have sold, rented, bartered or otherwise conveyed water since the last irrigation season shall not be eligible to utilize reallocated water. ③ The allocation change approved by this order shall revert to streamflow maintenance after the 1987 irrigation season.

By DNT Date 7/6/1987

STATE OFFICE PROCESSING:

☐ Amendment correct and complete. By _____ Date _____
☐ Approved copy sent to applicant and to Region. By _____ Date _____

RECEIVED
JUL 09 1987
Department of Water Resources

POINT OF DIVERSION AND STREAM INDEX INFORMATION

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH

IDAHO STREAM CODE INDEX

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH

IDAHO STREAM CODE INDEX

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH

IDAHO STREAM CODE INDEX

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH

IDAHO STREAM CODE INDEX

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH

IDAHO STREAM CODE INDEX

CONVERSATION MEMORANDUM

DATE 7/7/87

FILE 63-3618

NAME OF PARTY Carl Padour, Mgr. Boise Project Board of Control 344-1141

EMPLOYEE D. Tuthill

RE: Implementation of Conditions of Approval of Amendment to Change Nature of Use of 44,700 acre-feet for 1987 from Streamflow Maint Storage to Irr Storage (Approved 5/20/1987)

I called Mr. Padour to inquire about how the Boise Project Board of Control has complied with the provisions (conditions of approval) of the above-referenced application.

He stated that the attorneys for the irrigation districts that comprise the Board of Control met last week and determined that on an irrigation district basis, (1) no water has been sold or conveyed from one district to another, and (2) each district has an equal need for the water, based on the pro rata distribution of acreage irrigated. He stated that the districts have opted to distribute the water on a pro rata basis to their constituents due to the logistical problems, complexity and equity questions of any alternatives.

Mr. Padour stated that further questions regarding the position of the districts should be addressed to Ray Givens, Esq., who is a group spokesman on this issue.

DRF MICROFILMED

MAR 10 1988

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region

Cecil D. Andrus
Governor

2735 Airport Way
Boise, Idaho 83705
(208) 334-2190

July 6, 1987

Scott Clampbell, Esq.
ELAM, BURKE and BOYD
First Interstate Building
702 West Idaho
Post Office Box 1559
Boise, ID 83701

Re: Application for Amendment of Permit No. 63-3618

Dear Scott:

Enclosed per your request is a copy of the Application for Amendment filed by the U.S. Bureau of Reclamation on June 5, 1987. As we discussed, the "associated documents" mentioned in the legal advertisement refers to the Stipulation for Withdrawal of Protest regarding the earlier amendment, dated May 14, 1987, of which you already have a copy.

Based on your indication that you wish to have this copy to complete your records, and you do not wish to protest the application, I am today forwarding the application to our State office for final processing.

Sincerely,

DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

DRT:jp

Enclosure

MICROFILMED
MAR 10 1988

United States Department of the Interior

BUREAU OF RECLAMATION
CENTRAL SNAKE PROJECTS OFFICE
214 BROADWAY AVENUE
BOISE, IDAHO 83702

July 2, 1987

IN REPLY
REFER TO: 400
832.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

An copy of this letter was sent to the attached list.

Dear :

We are anticipating that some irrigation water users will not have a sufficient amount of water to meet their needs in 1987. In an effort to alleviate this problem, we are planning to make some of the storage water which has been stored for streamflow maintenance available for irrigation use. Accordingly, we have applied to the Idaho Department of Water Resources (IDWR) to change the nature of use for 25,905 acre-feet of the Bureau's Lucky Peak streamflow maintenance water to irrigation for this year. A copy of that application is enclosed, along with a copy of IDWR's published legal notice, for your reference.

We request that you and any other eligible entities which desire supplemental irrigation water from this application respond to us in writing postmarked by July 13, 1987. A temporary water service contract will be necessary to transfer the water to each entity. There will be a contract preparation charge of $100 and an operation and maintenance contract water charge of $3.10 per acre-foot. We anticipate that the requests for supplemental water will exceed the amount of water available. If you do not respond by July 13, we will assume that you are not interested in supplemental irrigation water from the Bureau this year. Responses should be addressed to me and contain a detailed analysis of your need for the water.

If requests for supplemental water exceed supply, the Bureau proposes to allocate on some fair basis. One possible allocation formula would be to divide the water available among those requesting it on the basis of their respective percentages of reservoir storage space in the Boise River system (see enclosed chart). In your response, you may want to suggest what method you feel should be used to allocate the water made available.

MAR 10 1988

You should also be aware that IDWR may impose conditions on approval of the Bureau's application which could limit the process which we would use to allocate the water among eligible applicants.

For your information, we are enclosing an updated list of storage water in Anderson Ranch, Arrowrock, and Lucky Peak Reservoirs for each entity which has a contract(s) for water. The list was obtained from the watermaster, Water District No. 63, and reflects account balances as of June 22, 1987.

Should it appear that you will have more storage water than you will need this season, please let us know. Your fellow water users may have a great need for water you are not planning to use. Arrangements to transfer storage water between entities could perhaps be arranged.

Sincerely yours,

Acting Project Superintendent

Enclosures

RECEIVED
MAR 10 1988

You should also be aware that IDWR may impose conditions on approval of the Bureau's application which could limit the process which we would use to allocate the water among eligible applicants.

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Sincerely yours,

Jack H. Hansen

Acting Project Superintendent

Enclosures
bcc: Hand carry a copy of Settlers and Pioneer to:
Scott Campbell, Elam, Burke & Boyd
First Interstate Bank Building
Boise, Idaho

bcc:Hockberger:lw 7-1-87
BOR Sol disc/doc 16

bcc: PN-420, 440
CSPO 100

JHHansen:ma lst & frm ltrs #21, 24

MICROFILMED

MAR 10 1988

Ballentyne Ditch Company
1001 Shoshone Street
Boise Idaho 83705

Mr. L. D. Holsinger
Secretary-Treasurer
Boise City Canal Company
8845 Cornwall Drive
Boise Idaho 83704

Mr. Carl Padour
Boise Project Board of Control
214 Broadway Avenue
Boise Idaho 83702

Boise Valley Irrigation
Ditch Company
4822 Alamosa Lane
Boise Idaho 83703

Canyon County Water Company
Route 1, Box 108
Star Idaho 83669

Capitol View Irrigation District
P.O. Box 208
Eagle Idaho 83616

Mr. Robert Meek
Secretary-Treasurer
Eagle Island Water Users Assoc.
2305 So. Channel
Boise Idaho 83642

c/o Patch Johnson
Fairview Acres Lateral
Water Users Association
P.O. Box 732
Boise Idaho 83701

Mr. Earnest A. Honey Watermaster
Farmers' Cooperative Ditch Co.,
Ltd.
Box 206
New Plymouth Idaho 83655

Mr. Terry Barfus Superintendent
Farmers' Union Ditch Co., Ltd.
Rural Route 1
Eagle Idaho 83616

NOT FILMED
MAR 10 1988

Ms. N. Jane Foote
Secretary-Treasurer
Middleton Irrigation Assoc. Inc.
418 North Dewey
Middleton Idaho 83644

Ms. N. Jane Foote
Secretary-Treasurer
Middleton Mill Association Inc.
418 North Dewey
Middleton Idaho 83644

c/o Mrs. Erma Fuller
New Dry Creek Ditch Company
Route 3, Dawn Court
Eagle Idaho 83615

New Union Ditch Company
1600 Riverside Drive
Eagle Idaho 83616

Mr. Lonnie J. Freeman
Superintendent
Pioneer Irrigation District
P.O. Box 426
Caldwell Idaho 83605

Pioneer Ditch Company Ltd.
Box 70
Star Idaho 83669

Mr. Steve Chappell Manager
Settlers Irrigation District
P.O. Box 7571
Boise Idaho 83707

South Boise Mutual Irrigation Co.
1120 Chamberlin
Boise Idaho 83706

A.M. Chatburn
South Boise Water Co.
1729 Colorado Street
Boise Idaho 83706

c/o Robert Carrico
Thurman Mill Ditch Company
Route 4, Joplin Road
Boise Idaho 83702

BALANCE IN STORAGE ACCOUNTS AS OF JUNE 22, 1987

Ballentyne Ditch Co.	1,364
Boise City Canal Co.	992
Boise Valley Irrigation Ditch Co.	3,359
Bubb (South Boise Mutual Irrigation Co.)	1,043
Canyon County Water Co.	5,979
Capitol View Irrigation District	760
Davis (Fairview Acres Lateral Water Users)	1,497
Eagle Island Water Users	7,608
Eureka #1 (Eureka Water Co.)	2,707
Farmers Union Ditch Co.	13,475
Little Pioneer (Farmers Cooperative Ditch)	2,528
Middleton Irrigation Assoc.	6,232
Middleton Mill Ditch Co.	4,513
New Dry Creek	4,243
New Union Ditch Co.	1,361
New York	359,122
Phyliss	58,492
Ridenbaugh	43,185
Rossi Mill	700
Sebree	1,227
Settlers Irrigation District	14,708
Thurman Mill	800
Boise Water Corporation	667

RECEIVED
MAR 10 1988

Pro Rata Distribution of Uncontracted Water
Based on Prior Contract Space Holdings

Irrigation Spaceholder List [1]	Reservoir Space Under Contract (A.F.) [2]	Percentage of Total Irrigation Space	Allocation of Water From Streamflow Maintenance for Temporary Use in 1987 [3]
Ballentyne Ditch Co.	1,676	0.21	148
Boise City Canal Co.	1,000	0.12	85
BPBOC [4]	669,129	81.97	57,875 [5]
Boise Valley Irrigation Ditch Co.	3,461	0.42	296
Canyon County Water Co.	6,000	0.73	515
Capitol View Irrigation District	760	0.09	64
Eagle Island Water Users	7,650	0.94	663
Eureka Water Co.	2,800	0.34	240
Fairview Acres Lateral Water Users Assoc.	1,500	0.18	127
Farmers' Cooperative Ditch Co.	1,207	0.15	106
Farmers Union Ditch Co.	18,653	2.28	1,610
Middleton Irrigation Assoc.	6,380	0.78	551
Middleton Mill Ditch Co.	4,620	0.57	402
New Dry Creek Ditch Co.	4,296	0.53	374
New Union Ditch Co.	1,400	0.17	120
Pioneer Irrigation District	62,981	7.71	5,444
Pioneer Ditch Co.	2,674	0.33	233
Settlers Irrigation District	17,620	2.16	1,525
South Boise Mutual Irrigation Co.	1,043	0.13	92
South Boise Water Co.	700	0.09	64
Thurman Mill Ditch Co.	800	0.10	71
Totals	816,350	100	70,605 [6]

1/ List of all contractors with space holdings in Anderson Ranch, Arrowrock, and Lucky Peak Reservoirs for irrigation use.

2/ Total space under contract, including all three reservoirs.

3/ This column represents a direct distribution of uncontracted water based on each entities' percentage of the total irrigation space under permanent contracts.

4/ Boise Project Board of Control - includes all space contracted on behalf of Big Bend, Boise-Kuna, Nampa & Meridian, New York, and Wilder Irrigation Districts. Space includes Ridenbaugh and Hillcrest space.

5/ Figure of 57,875 acre-feet includes 44,700 acre-feet previously made available in 1987 in accordance with prior agreement for drawdown for Lucky Peak Powerplant construction.

6/ Figure of 70,605 acre-feet is comprised of 44,700 acre-feet previously made available in 1987 to BPBOC and [illegible] additional amount of 25,905 acre-feet.

MICROFILMED
MAR 10 1988

CENTRAL SNAKE PROJECTS OFFICE
RECEIVED
JUL 13 1987

ORGANIZED 1904

Nampa & Meridian Irrigation District

1503 FIRST STREET SOUTH . NAMPA, IDAHO 83651-4395

Phones: Area Code 208
OFFICE: Nampa 466-7861
Boise 343-1884
SHOP: Nampa 466-0663
Boise 345-2431

13 July 1987

Jack Hansen
Bureau of Reclamation
Central Snake Project
214 Broadway Avenue
Boise, Idaho 83702

Dear Jack:

Nampa & Meridian Irrigation District would like to ask that you consider our need for any additional river flow water that would be available for our use through the Ridenbaugh Canal system. The District consists of over 67,000 acres. A portion of the land is river flow right that does not have adequate storage right in the reservoir system. Because of the snow pack shortage which will cause the natural production of the river to shorten substantially, we would like to purchase a percentage of the total acre feet of the uncontracted water in Lucky Peak Reservoir for our lands.

I do concur with Carl Padour, the Board of Control Project Manager. The need is very evident. Nampa & Meridian Irrigation District will work with Carl and the Boise River Watermaster if our project receives a portion of this supplemental water.

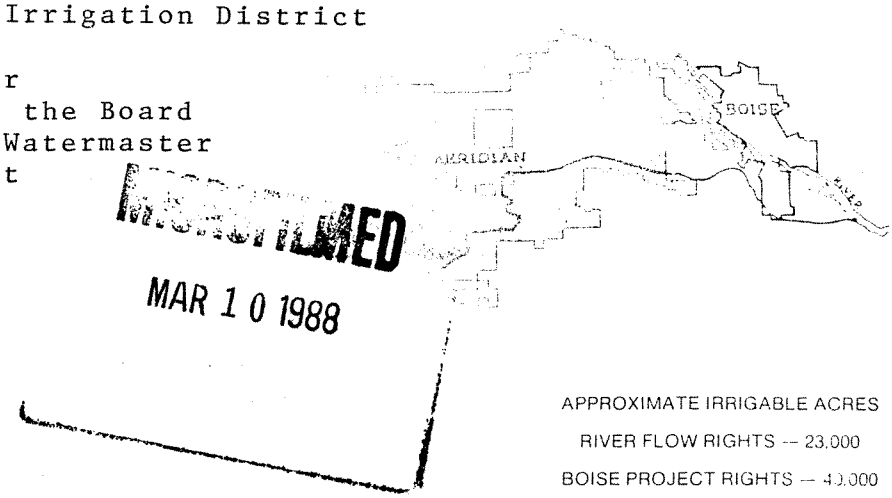
Sincerely,

Richard W. Haumann

Richard W. Haumann
District Manager
Nampa & Meridian Irrigation District

pc: Each Director
Secretary of the Board
Boise River Watermaster
W. F. Ringert
File
Carl Padour
RWH:jj

RECEIVED
MAR 10 1988



ELAM, BURKE AND BOYD
ATTORNEYS AND COUNSELORS AT LAW

FIRST INTERSTATE BUILDING
702 WEST IDAHO
POST OFFICE BOX 1559
BOISE, IDAHO 83701
TELEPHONE 208-343-5454
TELECOPIER 208-343-5454

LAUREL E. ELAM (1888-1974)
CARL A. BURKE (1898-1961)
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JEFFERY J. VENTRELLA
BRENDA G. MEIER
JOHN J. JANIS
WENDY E.D. SMITH

July 13, 1987

CERTIFIED MAIL -
RETURN RECEIPT REQUESTED

Mr. Jack H. Hansen
Acting Project Superintendent
Central Snake Projects Office
Bureau of Reclamation
United States Department of the Interior
214 Broadway Avenue
Boise, Idaho 83702

RE: 400
832.

Dear Mr. Hansen:

I am writing on behalf of this firm's client, Farmer's Union Ditch Company, Ltd., in response to your correspondence dated July 2, 1987.

Please consider this a formal request for 6,000 acre-feet of supplemental irrigation water which the Bureau of Reclamation is making available from the Lucky Peak Reservoir streamflow maintenance account.

While it is impossible, as you know, to provide an accurate prediction of the quantity of water utilized for irrigation purposes during the remaining portion of the irrigation season, I am providing an analysis of the anticipated water needs of the Farmer's Union Ditch Company, Ltd., to justify the receipt of supplemental irrigation water from the Bureau of Reclamation.

This calculation is based upon the diversion rate into the Farmer's Union Ditch of 156 c.f.s. as of July 6, 1987, the last formal documentation from Mr. Lee Sisco. Of this amount, 108 c.f.s. was provided by storage water in the reservoir system, with the remainder being provided by the natural flow of the Boise River. At the present rate of consumption of storage water

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(i.e., approximately 216 acre-feet per day) the Company will exhaust its stored water in approximately 49 days. This computation is based upon the figures provided by Mr. Sisco as of July 6, 1987, which reflects that Farmer's Union possessed 10,664 acre-feet of storage in the reservoir system at that time. Projecting that this rate of usage from July 6 means that Farmer's Union will exhaust its storage water on or about August 24, 1987. This presumes that the natural flow of the Boise River will not substantially lessen, thereby resulting in a reduction or elimination of the natural flow contribution into the Farmer's Union Canal system. As indicated above, it is highly unlikely that this will be the case.

Based upon the diversion rate of the Farmer's Union Ditch from the Boise River on July 6, 1987, i.e., 156 c.f.s. (producing approximately 308 acre-feet per 24-hour period), the Farmers Union Ditch Company will need approximately 15,400 acre-feet of storage water to complete the irrigation season. This computation is based upon the utilization of 300 acre-feet per day x 50 days remaining in the irrigation season after August 25, 1987.

Admittedly the Company accepts the fact that demand for irrigation water during the latter part of the season will lessen. Additionally, it is possible that the natural flow of the Boise River will continue to provide some contribution into the irrigation diversions of the Company. Accordingly, because of these factors, and because only 25,905 acre-feet of supplemental water can be made available by the Bureau of Reclamation, Farmer's Union requests that one-half of this projected shortfall amount - 7,700 acre-feet - be made available to it as supplemental irrigation water during the 1987 irrigation season.

Your correspondence invites suggestions regarding the appropriate method for determining allocations of the amounts of supplemental water to the various requesting entities. Farmer's Union Ditch Company, Ltd., recommends that the supplemental water be distributed on the basis of the percentage of space in the Lucky Peak Reservoir possessed by those irrigation entities which have existing storage contracts with the Bureau of Reclamation for space in that reservoir.

Those entities were solicited by the Bureau of Reclamation to enter into supplemental storage contracts for irrigation and have made contributory payments towards the operation and maintenance cost of that reservoir. Accordingly, those entities should share in the supplemental water which is made available from water stored in the reservoir for irrigation purposes.

This is particularly appropriate in view of the intentional acts of the Boise Project Board of Control Irrigation Districts resulting in the dumping of valuable irrigation water during the fall of 1986 to accommodate construction activities at the Lucky Peak Hydroelectric Project. Inasmuch as the Bureau of Reclamation has already consented to provide the Board

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MAR 10 1988

Districts with 44,700 acre-feet of streamflow maintenance water at no monetary cost to the Board of Control Districts, it is particularly inappropriate that these irrigation districts share in the additional supplemental water which is being made available unless they have previously contracted for storage space in Lucky Peak Reservoir.

Additionally, Farmer's Union Ditch Company, Ltd., believes that the Bureau of Reclamation should not charge either a contract preparation charge of $100.00 or a water charge of $3.10 per acre-foot of the supplemental water made available to the entities requesting it. If the Bureau of Reclamation can deem it appropriate to "give" 44,700 acre-feet of streamflow maintenance water to the Board of Control Irrigation Districts, it should provide the same opportunity to the contracting entities which have contributed to the operation and maintenance costs of Lucky Peak Reservoir. This is particularly true in view of the dumping of the valuable irrigation water by the Board of Control Districts to accommodate the construction activities at the Lucky Peak Hydroelectric Project.

Farmer's Union Ditch Company, Ltd., appreciates the efforts of the Bureau of Reclamation in making a portion of the streamflow maintenance water in Lucky Peak Reservoir available to Farmer's Union and other similarly situated irrigation districts and canal companies. The Company places its faith in the Bureau of Reclamation personnel to allocate the supplemental irrigation water on a fair, rational basis, taking into consideration all of the circumstances surrounding the competing uses at the Lucky Peak Reservoir and the prior actions of the Boise Project Board of Control Irrigation Districts in this matter.

Please advise me of your decisions with respect to this application at your earliest convenience. I will be available to answer any questions or provide additional information to you at your request.

Very truly yours,

ELAM, BURKE AND BOYD

Scott L. Campbell

SLC:bhb

cc: Board of Directors, Farmer's Union Ditch Company, Ltd.
Ms. Caroline Kellar

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MAR 10 1988

ELAM, BURKE AND BOYD
ATTORNEYS AND COUNSELORS AT LAW

FIRST INTERSTATE BUILDING
702 WEST IDAHO
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JOHN J. JANIS
WENDY E.D. SMITH

July 13, 1987

CERTIFIED MAIL -
RETURN RECEIPT REQUESTED

Mr. Jack H. Hansen
Acting Project Superintendent
Central Snake Projects Office
Bureau of Reclamation
United States Department of the Interior
214 Broadway Avenue
Boise, Idaho 83702

RE: 400
832.

Dear Mr. Hansen:

I am writing on behalf of this firm's client, Settler's Irrigation District, in response to your correspondence dated July 2, 1987.

Please consider this a formal request for 2,500 acre-feet of supplemental irrigation water which the Bureau of Reclamation is making available from the Lucky Peak Reservoir streamflow maintenance account.

While it is impossible, as you know, to provide an accurate prediction of the quantity of water utilized for irrigation purposes during the remaining portion of the irrigation season, I am providing an analysis of the anticipated water needs of the Settler's Irrigation District to justify the receipt of supplemental irrigation water from the Bureau of Reclamation.

As of July 6, 1987, the most current documented accounting available from Mr. Lee Sisco, Water Master for Water District No. 63, Settler's Irrigation District possessed approximately 12,178 acre-feet of storage water in the reservoir system. On that date, the rate of flow of diverted water from the Boise River into the Settler's Canal, the main distribution canal of

FILED
MAR 10 1988

the Settler's Irrigation District, was 182 cubic feet per second. Of this amount, approximately 72 c.f.s. constituted natural flow of water from the Boise River, and the remainder, 110 c.f.s., constituted storage water from the reservoir system.

The latest projection from Mr. Sisco suggests that Settler's will exhaust most, if not all, of its natural flow water rights within the next two weeks due to the diminishing natural flow in the Boise River. Accordingly, Settler's projects that it will require 2,500 acre-feet in order to maintain the required flows in its canal system to provide sufficient irrigation water for the lands served by the District.

This calculation is based upon the diversion rate into the Settler's Canal of 182 c.f.s. as of July 6, 1987, the last formal documentation from Mr. Sisco. Of this amount, 110 c.f.s. was provided by storage water in the reservoir system, with the remainder being provided by the natural flow of the Boise River. At the present rate of consumption of storage water (i.e., approximately 220 acre-feet per day) the Company will exhaust its stored water in approximately 55 days. This computation is based upon the figures provided by Mr. Sisco as of July 6, 1987, which reflects that Settler's possessed 12,178 acre-feet of storage in the reservoir system at that time. Projecting that this rate of usage from July 6 means that Settler's will exhaust its storage water on or about August 31, 1987. This presumes that the natural flow of the Boise River will not substantially lessen, thereby resulting in a reduction or elimination of the natural flow contribution into the Settler's Irrigation District system. As indicated above, it is highly unlikely that this will be the case.

Based upon the diversion rate of the Settler's Canal from the Boise River on July 6, 1987, i.e., 182 c.f.s. (producing approximately 364 acre-feet per 24-hour period), the Settler's Irrigation District will need approximately 16,380 acre-feet of storage water to complete the irrigation season. This computation is based upon the utilization of 364 acre-feet per day x 45 days remaining in the irrigation season after August 31, 1987.

Admittedly, the District accepts the fact that demand for irrigation water during the latter part of the season will lessen. Additionally, it is possible that the natural flow of the Boise River will continue to provide some contribution into the irrigation diversions of the District. Accordingly, because of these factors, and because only 25,905 acre-feet of supplemental water can be made available by the Bureau of Reclamation, Settler's requests that 2,500 acre-feet be made available to it as supplemental irrigation water during the 1987 irrigation season.

Your correspondence invites suggestions regarding the appropriate method for determining allocations of the amounts of supplemental water to the various requesting entities. Settler's Irrigation

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District recommends that the supplemental water be distributed on the basis of the percentage of space in the Lucky Peak Reservoir possessed by those irrigation entities which have existing storage contracts with the Bureau of Reclamation for space in that reservoir.

Those entities were solicited by the Bureau of Reclamation to enter into supplemental storage contracts for irrigation and have made contributory payments towards the operation and maintenance cost of that reservoir. Accordingly, those entities should share in the supplemental water which is made available from water stored in the reservoir for irrigation purposes.

This is particularly appropriate in view of the intentional acts of the Boise Project Board of Control Irrigation Districts resulting in the dumping of valuable irrigation water during the fall of 1986 to accommodate construction activities at the Lucky Peak Hydroelectric Project. Inasmuch as the Bureau of Reclamation has already consented to provide the Board of Control Districts with 44,700 acre-feet of streamflow maintenance water at no monetary cost to the Board of Control Districts, it is particularly inappropriate that these irrigation districts share in the additional supplemental water which is being made available unless they have previously contracted for storage space in Lucky Peak Reservoir.

Additionally, Settler's Irrigation District believes that the Bureau of Reclamation should not charge either a contract preparation charge of $100.00 or a water charge of $3.10 per acre-foot of the supplemental water made available to the entities requesting it. If the Bureau of Reclamation can deem it appropriate to "give" 44,700 acre-feet of streamflow maintenance water to the Board of Control Irrigation Districts, it should provide the same opportunity to the contracting entities which have contributed to the operation and maintenance costs of Lucky Peak Reservoir. This is particularly true in view of the dumping of the valuable irrigation water by the Board of Control Districts to accommodate the construction activities at the Lucky Peak Hydroelectric Project.

Settler's Irrigation District appreciates the efforts of the Bureau of Reclamation in making a portion of the streamflow maintenance water in Lucky Peak Reservoir available to Settler's and other similarly situated irrigation districts and canal companies. The District places its faith in the Bureau of Reclamation personnel to allocate the supplemental irrigation water on a fair, rational basis, taking into consideration all of the circumstances surrounding the competing uses at the Lucky Peak Reservoir and the prior actions of the Boise Project Board of Control Irrigation Districts in this matter.

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Please advise me of your decisions with respect to this application at your earliest convenience. I will be available to answer any questions or provide additional information to you at your request.

Very truly yours,

ELAM, BURKE AND BOYD

Scott L. Campbell

SLC:bhb

cc: Board of Directors, Settler's Irrigation District
Ms. Vicki Keene

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MAR 10 1988

ELAM, BURKE AND BOYD
ATTORNEYS AND COUNSELORS AT LAW

FIRST INTERSTATE BUILDING
702 WEST IDAHO
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BOISE, IDAHO 83701
TELEPHONE 208-343-5454
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JUL 14

LAUREL E. ELAM (1888-1974)
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WENDY E.D. SMITH

July 13, 1987

CERTIFIED MAIL -
RETURN RECEIPT REQUESTED

Mr. Jack H. Hansen
Acting Project Superintendent
Central Snake Projects Office
Bureau of Reclamation
United States Department of the Interior
214 Broadway Avenue
Boise, Idaho 83702

RE: 400
832.

Dear Mr. Hansen:

I am writing on behalf of this firm's client, Pioneer Irrigation District, in response to your correspondence addressed to Mr. Lonnie J. Freeman, Superintendent of Pioneer Irrigation District, dated July 2, 1987.

Please consider this a formal request for 9,600 acre-feet of supplemental irrigation water which the Bureau of Reclamation is making available from the Lucky Peak Reservoir streamflow maintenance account.

While it is impossible, as you know, to provide an accurate prediction of the quantity of water utilized for irrigation purposes during the remaining portion of the irrigation season, I am providing an analysis of the anticipated water needs of the Pioneer Irrigation District to justify the receipt of supplemental irrigation water from the Bureau of Reclamation.

As of July 6, 1987, the most current documented accounting available from Mr. Lee Sisco, Water Master for Water District No. 63, Pioneer Irrigation District possessed approximately 51,951 acre-feet of storage water in the reservoir system. As of the date of this correspondence, the rate of diverted

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MAR 10 1988

water from the Boise River into the Phyllis Canal, the main distribution canal of the Pioneer Irrigation District, was 448 cubic feet per second. Of this amount, approximately 150 c.f.s. constituted natural flow of water from the Boise River, and the remainder, 298 c.f.s., constituted storage water from the reservoir system. If it is assumed that the natural flow of the Boise River will not diminish during the remaining portion of the irrigation season, thereby reducing the natural flow contribution into the Phyllis Canal, Pioneer Irrigation District will have sufficient stored water to meet its irrigation needs for approximately 92 consecutive days at the 600 acre-feet per day rate of usage. The District does not believe that the natural flow contribution of the Boise River will continue at this level.

In order to understand the significance of the reduction in the natural flow contribution of the Boise River into the Pioneer system, it is necessary to briefly review the natural flow water rights possessed by the Pioneer District. These natural flow rights were establshed by the Stewart Decree. The Decree provided that Pioneer Irrigation District was entitled to the following amounts of the natural flow of the Boise River:

1. 2817 inches with a priority date of April 1, 1904;

2. 10,000 inches with a priority date of September 1, 1890; and

3. 2655 inches with a priority date of June 1, 1884.

By virtue of the percentage reduction in allocations imposed by the Bryan Decree, the natural flow rights of the Pioneer Irrigation District have been substantially reduced as the natural flow in the river diminishes. According to Mr. Lee Sisco, Water Master for Water District No. 63, the 1904 water right of 2817 miner's inches has been exhausted. Additonally, Pioneer Irrigation District is presently receiving 60 percent of the diversion it is entitled to under the remaining rights (Nos. 2 and 3 above). Additionally, accordingly to Mr. Sisco, since the Pioneer District possesses relatively poor priority dates, it is likely that the 10,000 miner's inches with priority date of September 1, 1890, will be completely exhausted in the next several weeks, thereby leaving Pioneer with a natural flow right of approximately 31 cubic feet per second (i.e., 2655 miner's inches = approximately 53 cubic feet per second x 60 percent = 31.8 c.f.s.). This represents a reduction of approximately 120 c.f.s. per day contribution into the Pioneer system. Replacement of this quantity of water would require 248 acre-feet of storage water per day to maintain the required flow rate in the Pioneer system.

Based upon this deficit reduction, assuming that the reduction in the natural flow right of the Pioneer District occurs within the next two or three weeks, which is not unlikely, the Pioneer District would face a shortfall of approximately 19,200 acre-feet

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of water in order to satisfy its irrigation needs through the remainder of the irrigation season (this figure is reached by multiplying 120 c.f.s x 2.0 acre-feet [the approximate quantity of water produced by one c.f.s. during a 24-hour period], resulting in 240 acre-feet per day usage multiplied by approximately 80 days remaining in the irrigation season, two weeks from the date of this correspondence).

Based upon these calculations, and recognizing that only 25,905 acre-feet of supplemental water can be made available by the Bureau of Reclamation, Pioneer requests that one-half of this projected shortfall amount - 9,600 acre-feet - be made available to it as supplemental irrigation water during the 1987 irrigation season.

Your correspondence invites suggestions regarding the appropriate method for determining allocations of the amounts of supplemental water to the various requesting entities. The Pioneer District recommends that the supplemental water be distributed on the basis of the percentage of space in the Lucky Peak Reservoir possessed by those irrigation entities which have existing storage contracts with the Bureau of Reclamation for space in that reservoir.

Those entities were solicited by the Bureau of Reclamation to enter into supplemental storage contracts for irrigation and have made contributory payments towards the operation and maintenance cost of that reservoir. Accordingly, those entities should share in the supplemental water which is made available from water stored in the reservoir for irrigation purposes.

This is particularly appropriate in view of the intentional acts of the Boise Project Board of Control Irrigation Districts resulting in the dumping of valuable irrigation water during the fall of 1986 to accommodate construction activities at the Lucky Peak Hydroelectric Project. Inasmuch as the Bureau of Reclamation has already consented to provide the Board of Control Districts with 44,700 acre-feet of streamflow maintenance water at no monetary cost to the Board of Control Districts, it is particularly inappropriate that these irrigation districts share in the additional supplemental water which is being made available unless they have previously contracted for storage space in Lucky Peak Reservoir.

Additionally, the Pioneer District believes that the Bureau of Reclamation should not charge either a contract preparation charge of $100.00 or a water charge of $3.10 per acre-foot of the supplemental water made available to the entities requesting it. If the Bureau of Reclamation can deem it appropriate to "give" 44,700 acre-feet of streamflow maintenance water to the Board of Control Irrigation Districts, it should provide the same opportunity to the contracting entities which have contributed to the operation and maintenance costs of Lucky Peak Reservoir. This is

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MAR 10 1988

particularly true in view of the dumping of the valuable irrigation water by the Board of Control Districts to accommodate the construction activities at the Lucky Peak Hydroelectric Project.

The Pioneer District appreciates the efforts of the Bureau of Reclamation in making a portion of the streamflow maintenance water in Lucky Peak Reservoir available to Pioneer and other similarly situated irrigation districts and canal companies. The District places its faith in the Bureau of Reclamation personnel to allocate the supplemental irrigation water on a fair, rational basis, taking into consideration all of the circumstances surrounding the competing uses at the Lucky Peak Reservoir and the prior actions of the Boise Project Board of Control Irrigation Districts in this matter.

Please advise me of your decisions with respect to this application at your earliest convenience. I will be available to answer any questions or provide additional information to you at your request.

Very truly yours,

ELAM, BURKE AND BOYD

Scott L. Campbell

SLC:bhb

cc: Board of Directors, Pioneer Irrigation District
Mr. Lonnie J. Freeman
Ms. Hazel Robinson

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MAR 10 1988

BURTON GILES
CHAIRMAN OF THE BOARD
VERL O'DELL
VICE CHAIRMAN OF THE BOARD
CARL PADOUR
PROJECT MANAGER
KENNETH HENLEY
ASSISTANT PROJECT MANAGER
NORLYN F. POPE
SECRETARY-TREASURER
PHEBE HILDEBRANDT
ASSISTANT SECRETARY-TREASURER

BOISE PROJECT BOARD OF CONTROL

(FORMERLY BOISE U. S. RECLAMATION PROJECT)

214 BROADWAY
BOISE, IDAHO 83702

OPERATING AGENCY FOR 167,000 ACRES FOR THE FOLLOWING IRRIGATION DISTRICTS:

NAMPA-MERIDIAN DISTRICT
BOISE-KUNA DISTRICT
WILDER DISTRICT
NEW YORK DISTRICT
BIG BEND DISTRICT

REGIONAL SOLICITOR'S OFFICE
RECEIVED
JUL 13 1987

July 10, 1987

Mr. Jack Hansen
Acting Project Superintendent
Bureau of Reclamation
Central Snake Projects Office
214 Broadway Avenue
Boise, Idaho 83702

Dear Mr. Hansen:

The Boise Project Board of Control on behalf of the New York, Boise-Kuna, Nampa and Meridian (including Ridenbaugh lands), Wilder and Big Bend Irrigation Districts is responding to your letter of July 2, 1987, concerning supplemental irrigation water. As you are aware, the Boise Project's irrigation deliveries are basically from reservoir storage. From available storage figures and records of water delivered thus far in 1987, the amount per acre of deliverable water will be about 1.6 acre feet per acre plus an average of Anderson carryover water of approximately 1 acre foot per acre. The average use for Project lands for the last 60 years has been 3.6 acre feet per acre, so we would like to be considered for any additional storage water that will be made available for the 1987 irrigation season.

Sincerely,

Carl Padour

Carl Padour
Project Manager

CP:ph

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MAR 10 1988

July 1, 1987

B. of C. Storage water (all reservoirs)	437,420 ac. ft.
Less 40% to weir blade	174,968 ac. ft.
Water available for delivery	262,452 ac. ft.
Less Anderson Carryover (approx.)	160,000 ac. ft
New water available for delivery	102,452 ac. ft
New water for approx. 165,000 acres =	.62 ac. ft. per acre

Hillcrest water	22,800 ac. ft.
Less 40% to weir blade	9,120 ac ft
Water available for delivery	13,680 ac ft.
÷ by 165,000 Government acres =	.08 ac. ft. per acre

Water still available	.62 ac ft per acre
Water deliveries - April	.16 ac ft per acre
Water deliveries - May	.35 ac. ft. per acre
Water deliveries - June	.38 ac ft per acre
Hillcrest water	.08 ac ft per acre
Water available for delivery (excluding carryover) =	1.59 ac. ft. per acre

Storage water in upper system	323,859 ac. ft.
Less 40% to weir blade	129,544 ac ft
Water available for delivery	194,315 ac ft
÷ by 115,000 acres	= 1.69 ac ft per acre
Storage water in Lower system	113,561 ac. ft.
Less 40% to weir blade	45,424 ac ft
Water available for delivery	68,137 ac ft
÷ by 50,000 acres	= 1.36 ac ft per acre

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MAR 10 1988

Robert M. Meek
ATTORNEY AT LAW

2305 South Channel Rd.
Meridian, Idaho 83642

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JUL 13 1987

July 10, 1987

Mr. Jack Hansen
Acting Project Superintendent
United States Department
of the Interior
Bureau of Reclamation
Central Snake Projects Office
214 Broadway Avenue
Boise, ID 83702

Subject: Excess Storage Water in Lucky Peak Reservoir
Your File 400 832.

Dear Mr. Hansen:

In your letter dated July 2, 1987, you requested information regarding excess storage water so that arrangements may be made to transfer storage water between entities. Eagle Island Water Users Association may have 5,000 acre-feet of excess storage water in Lucky Peak Reservoir. Please let me know what steps we would need to take to transfer storage water to entities which have a need for that water, including information regarding the cost and terms of sale.

Sincerely,

Robert M. Meek

Robert M. Meek
Secretary/Treasurer
Eagle Island Water Users
Association

RMM/L77190D

cc: Ed Doty
Richard Howard
Boyd Yee
Jon Wroten

MICROFILMED
MAR 10 1988

July 9, 1987

Bureau of Reclamation
Central Snake Projects Office
214 Broadway Avenue
Boise, Idaho 83702

Att: Jack W. Hanson
Acting Project Superintendent

Dear Sir,

In response to your letter dated, July 2, 1987, we would like to be considered for supplemental water. Depending on the final details, that will be worked out by the end of next week. After the meeting between Mr. John Keyes and our legal counsel Mr. Scott Campbell.

Sincerely,

N. Jane Foote
Secretary-Treasurer
Middleton Irrigation Assn.
Middleton Mill Ditch Co.

Signed:

President, Middleton Irrigation Assn.

President, Middleton Mill Ditch Co.

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MAR 10 1988

United States Department of the Interior

BUREAU OF RECLAMATION
PACIFIC NORTHWEST REGION
FEDERAL BUILDING & U.S. COURTHOUSE
BOX 043-550 WEST FORT STREET
BOISE, IDAHO 83724

IN REPLY
REFER TO: PN 1150

JUN 25 1987

RECEIVED
JUN 26 1987
Department of Water Resources

Mr. Kenneth Dunn, Director
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

Dear Mr. Dunn:

Subject: Conditions on Amendment to Permit No. 63-3618/R-1183

We relayed to the Boise Project Board of Control your May 20, 1987, order on the application to amend the above permit. Since the water supply for the project including holdover is well below minimum requirements, it appears none of the lands will have an "adequate" supply under paragraph 2 of the order.

We have also relayed to the Boise Project Board of Control via the enclosed June 22, 1987, letter, our current understanding of the unstated conditions in your order you wish imposed including special consideration for high value or perennial crops.

Our agency contracts with districts as spaceholders. Once the storage water is diverted from the Boise river, the Boise Project Board of Control and individual irrigation districts assume sole responsibility for distribution to their irrigators. It is extremely uncertain whether the districts have the technological ability to selectively deliver to certain crops, and if so, whether the districts have the legal ability to so discriminate.

It is our understanding that in the irrigation district confirmation proceedings, the decrees apportioned benefits equally over the irrigable acreage in the districts. This would seem to require an equal distribution among all district beneficiaries. In addition, those farmers who voluntarily reduced their acreage, may very well question the equity of the conditions you wish imposed.

We will, of course, continue to cooperate fully with your department in this matter and will request the districts to do the same to the extent permitted by law.

Sincerely yours,

John W. Keys, III

John Keys, III
Regional Director

MICROFILMED
MAR 10 1988

cc: Carl Padour
Ray Givens

United States Department of the Interior

BUREAU OF RECLAMATION
PACIFIC NORTHWEST REGION
FEDERAL BUILDING & U.S. COURTHOUSE
BOX 043-550 WEST FORT STREET
BOISE, IDAHO 83724

IN REPLY
REFER TO: PN 1150

JUN 25 1987

Mr. Kenneth Dunn, Director
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

Dear Mr. Dunn:

Subject: Conditions on Amendment to Permit No. 63-3618/R-1183

We relayed to the Boise Project Board of Control your May 20, 1987, order on the application to amend the above permit. Since the water supply for the project including holdover is well below minimum requirements, it appears none of the lands will have an "adequate" supply under paragraph 2 of the order.

We have also relayed to the Boise Project Board of Control via the enclosed June 22, 1987, letter, our current understanding of the unstated conditions in your order you wish imposed including special consideration for high value or perennial crops.

Our agency contracts with districts as spaceholders. Once the storage water is diverted from the Boise river, the Boise Project Board of Control and individual irrigation districts assume sole responsibility for distribution to their irrigators. It is extremely uncertain whether the districts have the technological ability to selectively deliver to certain crops, and if so, whether the districts have the legal ability to so discriminate.

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We will, of course, continue to cooperate fully with your department in this matter and will request the districts to do the same to the extent permitted by law.

Sincerely yours,

John W. Keys, III

John Keys, III
Regional Director

MICROFILMED

MAR 10 1988

cc: Carl Padour, Manager, Boise Project Board of Control
214 Broadway Avenue, Boise, Idaho 83702
Ray Givens, 277 North 6th, Boise, Idaho 83701

DM

ELAM, BURKE AND BOYD

ATTORNEYS AND COUNSELORS AT LAW

FIRST INTERSTATE BUILDING
702 WEST IDAHO
POST OFFICE BOX 1559
BOISE, IDAHO 83701
TELEPHONE 208-343-5454
TELECOPIER 208-343-5454

LAUREL E. ELAM (1888-1974)
CARL A. BURKE (1898-1961)
CARL P. BURKE
PETER J. BOYD
J. RAY DURTSCHI
M. ALLYN DINGEL, JR.
JACK S. GJORDING
JOHN MAGEL
DAVID B. LINCOLN
RICHARD C. MELLON, JR.
ROBERT M. TYLER, JR.
JAMES D. LaRUE
RANDALL A. PETERMAN
WILLIAM J. RUSSELL
KAYE L. O'RIORDAN
RYAN P. ARMBRUSTER
DAVID E. COMSTOCK
MELVILLE W. FISHER II
WILLIAM G. DRYDEN
TODD J. WILCOX
PETER C. K. MARSHALL
KENNETH M. SEBBY
TRUDY HANSON FOUSER
D. ALAN KOFOED
SCOTT L. CAMPBELL
BOBBI KILLIAN DOMINICK
W. DALLAS BURKHALTER
ALAN CONILOGUE
ELAINE D. HANSON
JEFFERY J. VENTRELLA
BRENDA G. MEIER
JOHN J. JANIS
WENDY E.D. SMITH

June 23, 1987

Mr. David R. Tuthill, Jr., P.E.
Manager, Western Regional Office
Department of Water Resources
State of Idaho
2735 Airport Way
Boise, ID 83705

Re: Application to Amend Permit No. 63-3618

Dear David:

I recently received a copy of the Notice of Application for Amendment of Permit No. 63-3618, which was sent to me by Ms. Judy Pense of your department in correspondence, dated June 11, 1987.

In accordance with the last paragraph of that Notice of Application for Amendment, I would like to obtain copies of the Application for Amendment and associated explanatory documents. Of course, I will remit payment for any charges associated with copying these documents.

Thank you for your kind cooperation.

Very truly yours,

ELAM, BURKE AND BOYD

Scott L. Campbell

Scott L. Campbell

SLC:ls

MICROFILMED
MAR 10 1988

RECEIVED
JUN 24 1987
Department of Water Resources
Western Regional Office

RECEIVED
JUN 23 1987
Department of Water Resources

June 22, 1987

400
840.

Mr. Carl Padour, Manager
Boise Project Board of Control
214 Broadway Avenue
Boise, Idaho 83702

Dear Mr. Padour:

Subject: Application for Amendment of Lucky Peak Reservoir Storage Permit No. 63-3618/R-1138 to Authorize use of up to 44,700 Acre-feet of Streamflow Maintenance Water for Irrigation in 1987

A. Kenneth Dunn, Director of the Idaho Department of Water Resources, has orally explained to the Bureau of Reclamation his general intent in conditioning approval of the subject application for amendment of a permit. As you know, conditions 2 and 3 of the Director's Memorandum Decision and Order were imposed by the Director without a fact finding hearing.

According to the Director, the underlying unstated condition he intended to impose was to require the best economic utilization of the water made available. In his view, that could require special consideration for high value or perennial crops. Those farmers who could count on an adequate water supply this year by drawing on carry-over rights would have less need than other farmers without those rights. No individuals who had marketed water would be allowed to make up with or profit from this water. An even distribution of the water pro rata over all the acres in the Boise Project would not meet the Director's stated objectives.

As the beneficial user of the water, the burden of complying with the Director's order falls primarily on the Boise Project Board of Control. The Bureau does not have the information or legal authority to make distinctions of the sort involved here between individual

MICROFILMED
MAR 10 1988

landowners. The Bureau has historically delivered water to the districts of the Boise Project, not to individual landowners. If the Board of Control foresees legal or practical difficulties in complying with the order, inform the Department of Water Resources.

We would appreciate being kept informed of any difficulties and would be pleased to assist you in any way possible.

Sincerely yours,

Jack Hansen

Jack Hansen
Acting Project Superintendent
Boise Project

cc: Mr. A. Kenneth Dunn, Statehouse Mail, Boise ID 83720
John J. Hockberger, Jr., Attorney, Field Solicitor's Office,
Box 020 - 550 West Fort Street, Boise, Idaho 83724

MICROFILMED

MAR 1 0 1988

NOTICE OF APPLICATION FOR AMENDMENT

Notice is hereby given that Permit No. 63-3618 in the name of the United States Bureau of Reclamation was filed on 4/12/1963 for the diversion of 307,000 acre-feet from the Boise River with a point of diversion at Lucky Peak Dam within the SE1/4 NE1/4, Sec. 11, T. 2N., R. 3E., to be used for irrigation within the irrigation system of the Boise Valley.

On 2/14/1985 the permit was amended to change the nature of use to describe 111,950 acre-feet storage for irrigation from 1/1 to 12/31, 111,950 acre-feet irrigation from storage from 3/15 to 11/15, 152,300 acre-feet storage for streamflow maintenance from 1/1 to 12/31, 152,300 acre-feet streamflow maintenance from storage from 1/1 to 12/31, and 28,800 acre-feet storage for recreation from 1/1 to 12/31, for a total of 293,050 acre-feet.

On May 20, 1987 the permit was amended to allow up to 44,700 acre-feet of streamflow maintenance water to be used for irrigation of Boise Project Board of Control lands during the 1987 irrigation season, subject to a specified repayment schedule.

The permit holder now proposes to amend the permit by allowing an additional 25,905 acre-feet of streamflow maintenance water to be used for irrigation of lands served under existing storage water contracts in the Boise River system during the 1987 season. Distribution of irrigation water made available upon approval of this application would be carried out according to a stipulation dated May 14, 1987.

Any protest against the approval of the proposed amendment must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 on or before July 6, 1987. If protests are received, a hearing will be scheduled to be held on July 17, 1987. Copies of the Application for Amendment and associated explanatory documents are available upon request.

A. Kenneth Dunn
Director

Published in the Idaho Statesman on 6/19 & 6/25/87.

MICROFILMED
MAR 10 1988

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region

Cecil D. Andrus
Governor

2735 Airport Way
Boise, Idaho 83705
(208) 334-2266

June 11, 1987

Dear Interested Party:

Please find enclosed a notice of Application for Amendment for No. 63-3618 in the name of the United States Bureau of Reclamation that was advertised in the Idaho Statesman.

Sincerely,

Judy Pense
Secretary

j

Encloseure

MICROFILMED

MAR 10 1988

NOTICE OF APPLICATION FOR AMENDMENT

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A. Kenneth Dunn
Director

Published in the Idaho Statesman on 6/18 & 6/25/87.

MICROFILMED

MAR 10 1988

4HO
T OF WATER RESOURCES
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1705

Randall C. Fredricks
CLEMONS, COSHO & HUMPHREY
815 W. Washington
Boise, ID 83702

IDAHO
IENT OF WATER RESOURCES
gion
t Way
o 83705

William F. Ringert
RINGERT CLARK HERRINGTON REID
CHRISTIANSEN & KAUFMAN
P.O. Box 2773
Boise, ID 83701

IDAHO
ENT OF WATER RESOURCES
ion
Way
83705

Raymond Givens
GIVENS, McDEVITT, PURSLEY
WEBB & BUSER
P.O. Box 2720
Boise, ID 83701

RECEIVED
MAR 10 1988

F IDAHO
MENT OF WATER RESOURCES
egion
rt Way
o 83705

John W. Keys, III
Regional Director
Pacific Northwest Region
Bureau of Reclamation
U.S. Dept. of Interior
Box 043-550 W. Fort St.
Boise, ID 83724

OF IDAHO
TMENT OF WATER RESOURCES
Region
ort Way
aho 83705

John J. Hockberager, Jr., Attorney
Boise Field Office
Pacific Northwest Region
Office of the Solicitor
Box 043-550 W. Fort St.
Boise, ID 83724

F IDAHO
MENT OF WATER RESOURCES
egion
rt Way
o 83705

Scott Campbell, Attorney
ELAM, BURKE and BOYD
First Interstate Bldg.
P.O. Box 1559
Boise, ID 83701

RECEIVED
MAR 10 1988

OF IDAHO
TMENT OF WATER RESOURCES
Region
port Way
laho 83705

Don Olowinski
HAWLEY, TROXELL, ENNIS & HAWLEY
P. O. ABox 1617
Boise, ID 83701

SOURCES

Larry Sullivan, Atty.
Schroder, Hutchensen, Sullivan
P. O. Box 220
Vale, OR 97918

MICROFILMED
MAR 10 1988

United States Department of the Interior

BUREAU OF RECLAMATION
PACIFIC NORTHWEST REGION
FEDERAL BUILDING & U.S. COURTHOUSE
BOX 043 - 550 WEST FORT STREET
BOISE, IDAHO 83724

IN REPLY
REFER TO: 420

JUN 05 1987

RECEIVED
JUN 05 1987
Department of Water Resources

Mr. Kenneth Dunn, Director
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

Dear Mr. Dunn:

Re: Permit No. 63-3618/R-1183, Application for Amendment of Water Right Permit, Boise Project, Idaho

Enclosed is an application for amendment of the Lucky Peak Reservoir storage permit to authorize use of up to 25,905 acre-feet of streamflow maintenance water for irrigation in 1987. This will be in addition to the 44,700 acre-feet of streamflow maintenance water which will be made available to the Boise Project Board of Control water users under Application for Amendment of Permit submitted March 12, 1987.

Please sign and return the enclosed voucher for payment of the application fee.

Signed by Ed Thomas (Dec)

Sincerely yours,

John W. Keys, III

Regional Director

MICROFILMED
MAR 10 1988

RECEIVED
JUN 9 1987
Department of Water Resources
Western Regional Office

Standard Form 1034
Revised January 1980
Department of the Treasury
I TFRM 4-2000
1034-118

PUBLIC VOUCHER FOR PURCHASES AND SERVICES OTHER THAN PERSONAL

VOUCHER NO.

U.S. DEPARTMENT, BUREAU, OR ESTABLISHMENT AND LOCATION

U.S. Department of the Interior
Bureau of Reclamation
Box 043-550 West Fort Street
Boise, Idaho 83724

DATE VOUCHER PREPARED

SCHEDULE NO.

CONTRACT NUMBER AND DATE
6-4-87

REQUISITION NUMBER AND DATE
7-07-10-W0678

PAID BY

PAYEE'S NAME AND ADDRESS

Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

COPY

DATE INVOICE RECEIVED

DISCOUNT TERMS

PAYEE'S ACCOUNT NUMBER

SHIPPED FROM | TO | WEIGHT | GOVERNMENT B/L NUMBER

NUMBER AND DATE OF ORDER	DATE OF DELIVERY* OR SERVICE	ARTICLES OR SERVICES (Enter description, item number of contract of Federal supply schedule, and other information deemed necessary)	QUANTITY	UNIT PRICE COST	UNIT PRICE PER	AMOUNT
		Application Fee - Application for Amendment of permit - Water Right Permit Lucky Peak Reservoir, Idaho Permit R-1183/63-3618				$20.00

(Use continuation sheet(s) if necessary) **(Payee must NOT use the space below)** **TOTAL** $20.00

PAYMENT:
- ☐ PROVISIONAL
- ☐ COMPLETE
- ☐ PARTIAL
- ☐ FINAL
- ☐ PROGRESS
- ☐ ADVANCE

APPROVED FOR =$20.00

EXCHANGE RATE =$1.00

DIFFERENCES

BY [2]

TITLE Realty Specialist

Amount verified; correct for

(Signature or initials)

RECEIVED
JUN 19 1987

Pursuant to authority vested in me, I certify that this voucher is correct and proper for payment.

DOC NO.:
DATE INV. RECVD.:
DATE SERVICE:
APPROVED BY:
COST AUTHORITY:

(Date) (Authorized Certifying Officer)[2] (Title)

Department of Water Resources
Western Regional Office

ACCOUNTING CLASSIFICATION

PAID BY

CHECK NUMBER	ON ACCOUNT OF U.S. TREASURY	CHECK NUMBER	ON (Name of bank)
CASH $	DATE	PAYEE [3]	

MICROFILMED

[1] When stated in foreign currency, insert name of currency.
[2] If the ability to certify and authority to approve are combined in one person, one signature only is necessary; otherwise the approving officer will sign in the space provided, over his official title.
[3] When a voucher is receipted in the name of a company or corporation, the name of the person writing the company or corporate name, as well as the capacity in which he signs, must appear. For example: "John Doe Company, per John Smith, Secretary", or "Treasurer", as the case may be.

PER MAR 10 1988

TITLE

Previous edition usable

☆ U.S. GOVERNMENT PRINTING OFFICE : 1983 O - 381-526 (8352)

NSN 7540-00-634-4206

PRIVACY ACT STATEMENT
The information requested on this form is required under the provisions of 31 U.S.C. 82b and 82c, for the purpose of disbursing Federal money. The information requested is to identify the particular creditor and the amounts to be paid. Failure to furnish this information will hinder discharge of the payment obligation.

OFFICIAL FILE COPY		
DATE	SURNAME	CODE
6/3	Thomas	424
6/4	[illegible]	420
6/5	Barho	400
6/5	Keys	100

420

STO.—

JUN 08 1987

Mr. Kenneth Dunn, Director
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

Dear Mr. Dunn:

Re: Permit No. 63-3618/R-1183, Application for Amendment of Water Right Permit, Boise Project, Idaho

Enclosed is an application for amendment of the Lucky Peak Reservoir storage permit to authorize use of up to 25,905 acre-feet of streamflow maintenance water for irrigation in 1987. This will be in addition to the 44,700 acre-feet of streamflow maintenance water which will be made available to the Boise Project Board of Control water users under Application for Amendment of Permit submitted March 12, 1987.

Please sign and return the enclosed voucher for payment of the application fee.

Sincerely yours,

John W. Keys III

Regional Director

bc: Project Superintendent, Central Snake Project Office, Boise, Idaho (w/enclosure)
RO 760 (w/enclosure)

EThomas:smf 6/4/87 Thu 9:52:31
#67

MICROFILMED

MAR 10 1988

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR AMENDMENT OF A PERMIT

To change the point of diversion and/or the place of use.

Comes now The United States of America acting through the Regional Director, Pacific Northwest Region, Bureau of Reclamation

of (address) Box 043-550 West Fort Street, Boise, ID 83724 , and represents

Director of the Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of

No. R-1183/63-3618 , and requests that the permit and permit map be changed as follows:

1. Point of diversion: SE ¼ NE ¼, Section 11 , Township 2N , Range 3E ,

County of Ada . Other points of diversion: Secondary diversions f:

the Boise River at various points downstream from Lucky Peak Reservoir.

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)

Amount (acre-feet)	Use	Period: From	To
111,950	Storage for Irrigation	Jan. 1	Dec. 31
111,950	Irrigation from Storage	Mar. 15	Nov. 15
152,300	Storage for Streamflow Maintenance	Jan. 1	Dec. 31
152,300	Streamflow Maintenance from Storage	Jan. 1	Dec. 31
28,800	Storage for Recreation	Jan. 1	Dec. 31

Total of 293,050 acre feet

TWP	RGE	SEC	NE¼				NW¼				SW¼				SE¼				TOT
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Supplemental irrigation of cultivated lands of the Boise Federal Reclamation Project Ada and Canyon counties.
Streamflow maintenance in the channel of the Boise River below Lucky Peak Reservoir. Lucky Peak Reservoir storage pool maintenance for Recreation.

Total number of acres to be irrigated = 277.

4. a. Who owns the property at the point of diversion? United States of America

b. Who owns the land to be irrigated or the place of use? Various Water Users

c. If the property is owned by a person other than the applicant, describe the arrangement enabling applicant to make this filing: Administrator of Federal Reclamation Project.

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MAR 10 1988

Complete the following map by showing land and point of diversion as proposed by this amendment

40 acre subdivisions, townships, ranges and ditches

DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. General information

   a. The amount of water for which the purpose of use may be modified is 25,905 acre-feet.

   b. Storage water is to be released from Lucky Peak Reservoir.

   c. The reasons for the proposed change is to provide an emergency supplemental irrigation water supply to entities with existing storage water contracts in the Boise River system.

2. Change

   a. This amendment is not intended to permanently alter the distribution of uses for storage waters in Lucky Peak Reservoir. Instead, this amendment will authorize use of up to 25,905 acre-feet of streamflow maintenance water for irrigation lands served under existing storage water contracts in the Boise River system during the 1987 season.

   b. Distribution of irrigation water made available upon approval of this application will be carried out generally according to the plan set forth in the stipulation for withdrawal of protest lodged with the Department of Water Resources on May 14, 1987, a copy of which is attached hereto and incorporated herein by reference. That stipulation concerned the Bureau's March 12, 1987, application to change the nature of use of 44,700 acre feet of Lucky Peak Reservoir storage water from streamflow maintenance to irrigation.

2 inches equal 1 mile.

That no one will be injured by such change, and that such change will be made at permit holder's own risk.

Signed at _____, this _____ day of _____, 19____.

John V. [illegible]
(Signature)

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = $20.00 Receipted by _____ Date _____

Publication prepared by _____ Date _____ Published in _____

Publication dates _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

I, _____, Director of the Department of Water Resources hereby

_____

_____

_____

Witness my hand this _____ day of _____, 19____.

_____
Director

MICROFILMED
MAR 10 1988

May 22, 1987

Regional Director,
Pacific Northwest Region
Bureau of Reclamation
Box 043-550 W. Fort St.
Boise, ID 83724

Dear Sir:

Re: Permit No. 63-3618 - Application for Amendment

Enclosed is a copy of the approved Application for Amendment and a copy of the Memorandum Decision and Order. I direct your attention to the conditions of approval as set forth in the order.

Sincerely,

BOBBY D. FLEENOR
Chief, Regional Office Bureau

BDF:rf

Enclosures

c w/enc: Scott Campbell

MICROFILMED
MAR 10 1988

United States Department of the Interior

OFFICE OF THE SOLICITOR
PACIFIC NORTHWEST REGION
BOISE FIELD OFFICE
FEDERAL BUILDING & U.S. COURTHOUSE
BOX 020-550 WEST FORT STREET
BOISE, IDAHO 83724

IN REPLY
REFER TO:

LBR.BO.0173

MAY 18 1987

Mr. Scott Campbell
P.O. Box 1559
Boise, Idaho 83701

Mr. Randall C. Fredericks
815 West Washington
Boise, Idaho 83702

Mr. Don Olowinski
P.O. Box 1617
Boise, Idaho 83701

Mr. Raymond D. Givens
P.O. Box 2720
Boise, Idaho 83701

Mr. William Ringert
599 West Bannock
Boise, Idaho 83702

Mr. Larry Sullivan
P.O. Box 220
Vale, Oregon 97918

RE: U.S. Bureau of Reclamation Application to Amend
Water Permit No. 63-3618

Gentlemen:

Enclosed for each of you is a conformed copy of the stipulation filed May 14 with the Idaho Department of Water Resources (IDWR). Mr. Tuthill of IDWR advised me by telephone May 15 that IDWR was nearing completion of its independent review of the application and a decision should be forthcoming shortly. Thank you for your cooperation in developing and executing the stipulation.

MICROFILMED
MAR 10 1988

Sincerely yours,

John J. Hockberger, Jr.
Attorney

Enclosure

cc: Dave Tuthill, Jr., P.E.
Manager, Western Regional Office
Department of Water Resources
2735 Airport Way
Boise, Idaho 83705
(w/o enclosure)

RECEIVED
MAY 18 1987
Department of Water Resources
Western Regional Office

RECEIVED
MAY 21 1987
Department of Water Resources

Form No. 211a
11/78

State of Idaho

Department of Water Resources

AMENDMENT ANALYSIS SHEET

INITIAL REVIEW BY: Jan Shute

Right Number 63-31618 Applicant U.S.B.O.R.

Purpose of Amendment: ☐ Change point of diversion. ☐ Add diversion point(s).

☐ Increase amount. ☐ Change place of use. ☐ Other NATURE OF USE

CHECK:

☑ Description of amended point(s) of diversion.

☑ Amount, nature and period of use. If increased, delay date of priority.

☑ Description of amended places of use. If expanded, delay date of priority.

☑ Ownership of point of diversion and place of use.

☑ Map. NONE

☑ Signature (must be permit holder).

Voucher Rec'd → ☑ Fee.

☑ Existing water rights from the same source, amended place of use.

☑ Right number(s) _____

☑ Yes ☐ No Should amendment be advertised?

☐ Yes ☑ No Should date of priority be delayed? If yes, to what date? _____

FINAL REGIONAL PROCESSING REVIEW:

☑ Affidavit of publication received.

☑ Amendment published correctly. The Statesman 3/19 & 3/26/87 20 /

☑ Protests processed. Withdrawn

☑ Approve.

☐ Deny.

Conditions This amendment is temporary only and will be rescinded after the 1987 irrigation season, Subject to the repayment provisions and guarantee of streamflow maintenance capacity through April 15, 1990, as stipulated by the involved parties.

By DRS Date 5/15/87

STATE OFFICE PROCESSING:

☐ Amendment correct and complete. By _____ Date _____

☐ Approved copy sent to applicant and to Region. By _____ Date _____

POINT OF DIVERSION AND STREAM INDEX INFORMATION

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH

IDAHO STREAM CODE INDEX

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH

IDAHO STREAM CODE INDEX

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH

IDAHO STREAM CODE INDEX

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH

IDAHO STREAM CODE INDEX

TRACT	SEC.	TWP	RGE	gov't lot	rediv. (R)	REACH

IDAHO STREAM CODE INDEX

STATE OF IDAHO

Department of Water Resources

No 44851

Boise, Idaho, 5/19, 1987

RECEIVED FROM Bureau of Reclamation Denver $ 20.00

twenty dollars 00/ DOLLARS

FOR		
Amendment	$ 20	00
63-3618	$	
	$	
15.51	$	
TOTAL - - -	$ 20	00

Judy Jones

NOTICE TO CHECK RECIPIENT — TREASURY-FINANCIAL MANAGEMENT SERVICE — TFS FORM 3039 (Rev.)

VENDOR NAME: STATE OF IDAHO

VENDOR I.D. NUMBER: 00-A350304

AGENCY NAME AND BILLING ADDRESS:
BUREAU OF RECLAMATION
DIV. OF FIN. OPER. D-370
P.O. BOX 25508
DENVER CO 80225-0508

U.S. TREASURY REG. FINANCIAL CENTER: SAN FRANCISCO, CA

CHECK NUMBER	CHECK AMOUNT	CHECK DATE
3145-55341256	$*****20*00	04-13-87

7-07-10-W0632, R-1183/63-3618 — 20.00

AGENCY SCHEDULE NUMBE: 0000040999

AGENCY TELEPHONE NUMBE: 303-236-7650

[redacted]

PAYMENT IDENTIFICATION DATA

PLEASE DIRECT ANY INQUIRIES CONCERNING THIS PAYMENT TO THE AGENCY AT THE ADDRESS (OR TELEPHONE NUMBER) INDICATED ABOVE.

RECEIVED
MAY 14 1987
hand delivered 4:38
Department of Water Resources

BEFORE THE DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

IN THE MATTER OF THE APPLICATION FOR AMENDMENT OF PERMIT NO. 63-3618 IN THE NAME OF THE UNITED STATES BUREAU OF RECLAMATION	STIPULATION FOR WITHDRAWAL OF PROTEST

COME NOW the applicant, BUREAU OF RECLAMATION (hereinafter the "Bureau"); the protestants, SETTLERS IRRIGATION DISTRICT and PIONEER IRRIGATION DISTRICT; the intervenors, BOISE-KUNA IRRIGATION DISTRICT, NEW YORK IRRIGATION DISTRICT, NAMPA & MERIDIAN IRRIGATION DISTRICT, WILDER IRRIGATION DISTRICT, BIG BEND IRRIGATION DISTRICT, and BOISE PROJECT BOARD OF CONTROL, and the intervenors, MIDDLETON IRRIGATION ASSOCIATION, INC., THURMAN MILL DITCH COMPANY, HAAS DITCH COMPANY, and FRANKLIN DITCH COMPANY, by and through their respective attorneys of record, to stipulate and agree as follows:

1. The Settlers Irrigation District and Pioneer Irrigation District hereby withdraw their protest against the above-captioned application by the Bureau of Reclamation.

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2. The intervenors--Boise-Kuna Irrigation District, New York Irrigation District, Nampa & Meridian Irrigation District, Wilder Irrigation District, Big Bend Irrigation District, and Boise Project Board of Control--hereby withdraw their petition to intervene.

3. The intervenors--Middleton Mill Ditch Company, Middleton Irrigation Association, Inc., Thurman Mill Ditch Company, Haas Ditch Company and Franklin Ditch Company--hereby withdraw their petition for leave to intervene.

4. The Bureau will confer with the Idaho Department of Fish and Game to determine the availability of additional streamflow maintenance water for irrigation in 1987. The Idaho Department of Fish and Game may exclude water dedicated to its maintenance of streamflows from inclusion in further amendment of the Bureau's Lucky Peak Reservoir storage permit. The Bureau will then apply as soon as possible to the Idaho Department of Water Resources to amend its Lucky Peak Reservoir storage permit to authorize use of additional streamflow maintenance water for irrigation purposes in 1987 by entities with storage rights in the Boise River system. The class of eligible entities would include, but not be limited to the Settlers Irrigation District, Pioneer Irrigation District, Middleton Mill Ditch Company, Middleton Irrigation Association, Inc., Thurman Mill Ditch Company, Boise-Kuna Irrigation District, New York Irrigation

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District, Nampa & Meridian Irrigation District, Wilder Irrigation District, and Big Bend Irrigation District.

5. The Bureau will notify all storage right holding entities of the application to the Idaho Department of Water Resources and invite them to submit their cases for receiving any water made available. If requests for supplemental water exceed the available supply, the Bureau will initiate a public process for deciding on a fair allocation. Input on appropriate criteria for deciding from among interested entities will be solicited from the entities themselves and other interested parties. The ultimate decision on which entities the Bureau contracts with and the amounts to be made available to them will be left to the Bureau's informed discretion.

6. At the present time the Bureau cannot quantify the total amount of water that may be available or the proportionate share that any interested entity might receive. The terms of any contract are also uncertain at this time. Compensation for water allocated, in the form of money or an exchange of water, will likely be a requirement.

7. The undersigned applicant, protestants, and intervenors agree to cooperate in carrying out the terms of this stipulation and to the filing of this stipulation with the Idaho Department of Water Resources in the currently pending proceedings involving the application for amendment of the subject permit.

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Dated this 14th day of May, 1987.

Applicant BUREAU OF RECLAMATION

By: John W. Keys, III

John W. Keys, III.
Regional Director
Pacific Northwest Region
Bureau of Reclamation
U. S. Department of the Interior

Approved as to Form: John J. Hockberger, Jr.

John J. Hockberger, Jr., Attorney
Boise Field Office
Pacific Northwest Region
Office of the Solicitor
U.S. Department of the Interior

Dated this 14th day of May, 1987.

Protestants SETTLERS IRRIGATION DISTRICT and PIONEER IRRIGATION DISTRICT; Intervenors MIDDLETON MILL DITCH COMPANY, MIDDLETON IRRIGATION ASSOCIATION, INC., THURMAN MILL DITCH COMPANY, HAAS DITCH COMPANY, and FRANKLIN DITCH COMPANY

By: Scott L. Campbell

Scott L. Campbell of the firm
ELAM, BURKE & BOYD

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Dated this 14th day of May, 1987.

Intervenor BOISE-KUNA IRRIGATION DISTRICT

By: Randall C. Fredricks
Randall C. Fredricks of the firm
CLEMONS, COSHO & HUMPHREY

Dated this 14th day of May, 1987.

Intervenors NEW YORK IRRIGATION DISTRICT and BOISE PROJECT BOARD OF CONTROL

By: Raymond D. Givens
Raymond D. Givens of the firm
GIVENS, McDEVITT, PURSLEY,
WEBB & BUSER

Dated this 14th day of May, 1987.

Intervenor NAMPA & MERIDIAN IRRIGATION DISTRICT

By: W F Ringert
William F. Ringert of the firm
RINGERT, CLARK, HERRINGTON, REID,
CHRISTIANSEN & KAUFMAN

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Dated this 14th day of May, 1987.

Intervenor WILDER IRRIGATION DISTRICT

By: Don Olowinski
Don Olowinski of the firm
HAWLEY, TROXELL, ENNIS & HAWLEY

Dated this 14 day of May, 1987.

Intervenor BIG BEND IRRIGATION DISTRICT

By: Larry Sullivan
Larry Sullivan, Attorney at Law

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State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region

Cecil D. Andrus
Governor

2735 Airport Way
Boise, Idaho 83705
(208) 334-2190

May 8, 1987

63-3618
U.S. DEPT. OF INTERIOR
BUREAU OF RECLAMATION
ATTN: 424 BOX 043
550 W. FORT ST.
BOISE, ID 83724

Dear Applicant(s):

We acknowledge receipt of your statement of proof of beneficial use for the above-referenced permit.

Before a license can be issued, a field examination must be made by a representative of this Department. A field examiner will contact you to arrange to examine your system.

If you have any questions regarding the field examination, please contact this office.

Sincerely,

Judy Pense
Secretary

/jp

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ELAM, BURKE AND BOYD
ATTORNEYS AND COUNSELORS AT LAW

FIRST INTERSTATE BUILDING
702 WEST IDAHO
POST OFFICE BOX 1559
BOISE, IDAHO 83701
TELEPHONE 208-343-5454
TELECOPIER 208-343-5454

LAUREL E. ELAM (1888-1974)
CARL A. BURKE (1898-1961)
CARL P. BURKE
PETER J. BOYD
J. RAY DURTSCHI
M. ALLYN DINGEL, JR.
JACK S. GJORDING
JOHN MAGEL
DAVID B. LINCOLN
RICHARD C. MELLON, JR.
ROBERT M. TYLER, JR.
JAMES D. LaRUE
RANDALL A. PETERMAN
WILLIAM J. RUSSELL
KAYE L. O'RIORDAN
RYAN P. ARMBRUSTER
DAVID E. COMSTOCK
MELVILLE W. FISHER II
WILLIAM G. DRYDEN
TODD J. WILCOX
PETER C. K. MARSHALL
KENNETH M. SEBBY
TRUDY HANSON FOUSER
D. ALAN KOFOED
SCOTT L. CAMPBELL
BOBBI KILLIAN DOMINICK
W. DALLAS BURKHALTER
ALAN CONILOGUE
ELAINE D. HANSON
JEFFERY J. VENTRELLA
BRENDA G. MEIER
JOHN J. JANIS
WENDY E.D. SMITH*
*PENN. & D.C. BARS ONLY

May 8, 1987

VIA HAND DELIVERY

David R. Tuthill, Jr., P.E.
Manager, Western Regional Office
Department of Water Resources
State of Idaho
2735 Airport Way
Boise, ID 83705

Re: Application for Amendement of Permit No. 63-3618

Dear Mr. Tuthill:

I have enclosed the original plus one copy of the Petition for Leave to Intervene for filing in the above-captioned matter.

Very truly yours,

ELAM, BURKE AND BOYD

Scott L. Campbell

SLC:ls
Enclosures

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Western Regional Office

Peter J. Boyd
Scott L. Campbell
ELAM, BURKE AND BOYD
1010 First Interstate Building
P.O. Box 1559
Boise, Idaho 83701
(208) 343-5454

Attorneys for Petitioners

BEFORE THE DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

IN THE MATTER OF THE APPLICATION FOR AMENDMENT OF PERMIT NO. 63-3618, IN THE NAME OF THE UNITED STATES BUREAU OF RECLAMATION	PETITION FOR LEAVE TO INTERVENE

COMES NOW, Middleton Mill Ditch Company, Middleton Irrigation Association, Inc., Thurman Mill Ditch Company, Haas Ditch Company, and Franklin Ditch Company, by and through their counsel, the firm of Elam, Burke and Boyd, and hereby petition the Idaho Department of Water Resources for leave to intervene in the above-captioned proceeding.

The name and address of each petitioner is set forth below:

Middleton Mill Ditch Company
c/o Floyd Whitely
Route 1, Box 384
Middleton, ID 83644

Middleton Irrigation Association, Inc.
c/o Sam Rosti
Route 1, Box 30
Star, ID 83669

Thurman Mill Ditch Company
c/o Bob Carrico
Route 4, Joplin Road
Boise, ID 83714

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Haas Ditch Company
c/o Raymond Abbott
Route 3
Parma, ID 83660

Franklin Ditch Company
c/o Wayne Bishop
Route 3
Caldwell, ID 83605

The petitioners possess irrigation water storage rights in Lucky Peak Reservoir, pursuant to contracts with the U.S. Department of the Interior, Bureau of Reclamation, or natural flow-of-the-river water rights in the Boise River pursuant to court decree, or both in some cases.

Petitioners believe that the terms of the proposed amendment of Permit No. 63-3618 may adversely effect the water storage rights of the petitioners in Lucky Peak Reservoir.

Petitioners also believe that the reasons for the proposed change, as stated in the Application for Amendment of Permit No. 63-3618, which is to "provide a water supply to the users of the Boise Board of Control to offset shortages due to evacuation of Lucky Peak Reservoir during power plant construction," is an improper basis for granting such a change in the nature of use of the water.

Petitioners further believe that the modification of the nature of use of 44,700 acre-feet of stored water from stream-flow maintenance purposes to irrigation purposes in order to supply water to the water users of the Boise Board of Control and not to the petitioners constitutes an unjust, preferential

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treatment of one group of water users to the detriment of the petitioners.

Petitioners assert that if the 44,700 acre-feet of stream-flow maintenance water is changed to irrigation use for the benefit of the Boise Project Board of Control water users, a like amount should be changed to irrigation use and be made available to petitioners for additional water during the 1987 irrigation season. This is particularly important in view of the below normal precipitation accumulations in the Boise River drainage during the period of October 1986 through April 1987.

Petitioners further assert that they are required to pay a water charge for stored water provided to them for irrigation purposes out of Lucky Peak Reservoir, pursuant to their irrigation storage contracts with the U.S. Bureau of Reclamation. The water storage charge for the 1987 irrigation season has been established at $3.10 per acre-foot. Petitioners, therefore, believe it is not in the public interest to permit the U.S. Bureau of Reclamation to change 44,700 acre-feet of stream-flow maintenance water in Lucky Peak Reservoir and deliver it to the Boise Project Board of Control irrigation districts at no monetary cost, while the Bureau of Reclamation charges the petitioners for irrigation water from Lucky Peak Reservoir.

Petitioners also assert that due to the drought conditions in the Boise River Basin and the Treasure Valley during this irrigation season, the petitioners have an extreme need for supplemental irrigation water supplies in order to irrigate the agricultural

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lands supplied by the petitioners' delivery systems. If supplemental water supplies are not made available, substantial economic harm will be suffered by the landowners and shareholders in the petitioners' service area.

If the Petition for Leave to Intervene is granted, the petitioners will present testimony relative to the issues set forth above. This testimony will be provided by members of the boards of directors of the petitioners and possibly from individuals landholders in the petitioners' service area.

This petition is filed pursuant to Rule 6,2. of the Rules and Regulations of Practice and Procedure Before the Department of Water Resouces, State of Idaho.

Petitioners were not provided with notice of this proceeding from the Department of Water Resources, State of Idaho, and this petition is filed more than five days prior to the date set for hearing in this matter. Rule 6,3., Rules and Regulations of Practice and Procedure Before the Department of Water Resources, State of Idaho.

DATED This 8th day of May, 1987.

ELAM, BURKE & BOYD

By Scott L. Campbell
Scott L. Campbell, Of the Firm
Attorneys for Petitioners

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CERTIFICATE OF HAND DELIVERY

I HEREBY CERTIFY That on this 8th day of May, 1987, I caused a true and correct copy of the above and foregoing instrument to be hand delivered to:

John W. Keys, III
Regional Director
Pacific Northwest Region
Bureau of Reclamation
Box 043, 550 W. Fort Street
Boise, ID 83724

John J. Hockberger, Jr.
Office of the Field Solicitor
Pacific Northwest Region
Bureau of Reclamation
Box 043, 550 W. Fort Street
Boise, ID 83724

Scott L. Campbell

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Department of Water Resources

CERTIFICATE OF HAND DELIVERY

THE UNDERSIGNED does hereby certify that he caused a copy of the attached Petition in Intervention to be hand delivered on the 11th day of May, 1987 to the following named persons:

Mr. John J. Hockburger, Jr.
Bureau of Reclamation
550 West Fort St.
Boise, Idaho

Mr. John W. Keyes, III
Regional Director
Bureau of Reclamation
U. S. Departament of Interior
550 W. Fort St.
Boise, Idaho

Raymond D. Givens
RAYMOND D. GIVENS

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MAY 0 8 1987

Department of Water Resources

Randall C. Fredricks
CLEMONS, COSHO & HUMPHREY
815 West Washington
Boise, Idaho 83702

William F. Ringert
RINGERT, CLARK, HERRINGTON
REID, CHRISTIANSEN
& KAUFMAN
599 West Bannock
Bosie, Idaho 83702

Raymond D. Givens
GIVENS, McDEVITT, PURSLEY,
WEBB & BUSER
Box 2720
Boise, Idaho 83701

Don Olowinski
HAWLEY TROXELL ENNIS & HAWLEY
Box 1617
Boise, Idaho 83701

Larry Sullivan
Attorney at Law
Box 220
Vale, Oregon 97918

BEFORE THE DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

IN THE MATTER OF THE APPLICATION FOR AMENDMENT OF PERMIT NO. 63-3618, IN THE NAME OF THE UNITED STATES BUREAU OF RECLAMATION	) PETITION TO INTERVENE

COME NOW, the BOISE-KUNA IRRIGATION DISTRICT, WHOSE ADDRESS IS 311 South School Avenue, Kuna, Idaho 83634, NEW YORK IRRIGATION DISTRICT, 214 Broadway Avenue, Boise, Idaho 83702, NAMPA & MERIDIAN IRRIGATION DISTRICT, whose address is 1503 1 St. S., Nampa, Idaho 83651, WILDER IRRIGATION DISTRICT, 709 Cleveland Boulevard, Caldwell, Idaho 83605 and BIG BEND IRRIGATION DISTRICT, Route 3, Box 3193, Adrian, Oregon 97918, and BOISE PROJECT BOARD OF CONTROL, 214 Broadway Avenue, Boise, Idaho 83702, by and through their attorneys, respectively, CLEMONS, COSHO & HUMPHREY, RINGERT, CLARK, HERRINGTON, REID, CHRISTIANSEN & KAUFMAN, GIVENS, McDEVITT, PURSLEY,WEBB & BUSER, HAWLEY, TROXELL,

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ENNIS & HAWLEY, Larry Sullivan, and GIVENS, McDEVITT, PURSLEY WEBB & BUSER, and petition for leave to intervene in the above application, and in support of such petition to intervene allege:

I

That each of the irrigation districts herein named possess certain water storage rights in the Anderson Ranch reservoir and the Arrowrock reservoir and the Nampa & Meridian Irrigation District possesses certain storage rights in the Lucky Peak reservoir, all pursuant to contracts with the United States Department of Interior, Bureau of Reclamation; that each of the irrigation districts above named, individually or collectively, possess certain natural flow water rights to divert water from the Boise River.

II

That the Boise Project Board of Control, an entity created by the contracts among the districts above named and the United States Department of Interior, Bureau of Reclamation, pursuant to which contracts the Boise Project Board of Control has been designated as the operating agent for the districts to effect the delivery of water under the contracts, and the decreed water rights of the districts.

III

That each of the districts herein named are the holders

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of a license issued by the Federal Energy Regulatory Commission of License No. 2832, copy of which is attached hereto, marked Exhibit A.

IV

That in connection with the construction of the works authorized by said FERC License No. 2832, and in order to comply with the operational directives of the U. S. Army Corp of Engineers and accommodate the construction of the power plant project it became necessary to lower the water level of the Lucky Peak reservoir during the fall of 1986; that as a condition for permitting of this release of said water from the Lucky Peak reservoir, the United State Department of Interior, Bureau of Reclamation, required an agreement with the Boise Project Board of Control acting for the districts herein named with regard to the refilling of the space thereby evacuated from the Lucky Peak reservoir; that such an agreement was entered into between Boise Project Board of Control and the U. S. Department of Interior, Bureau of Reclamation, dated June 26, 1986, a copy of which is attached hereto marked Exhibit B.

V

That in 1964 the Department of Water Resources granted a Permit to the United States Department of Interior, Bureau

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of Reclamation to store water in Lucky Peak reservoir of 307,000 acre feet, of which 278,200 is useable storage for irrigation purposes except for 50,000 acre feet required to be utilized to maintain winter time minimum flow in the Boise River; that in 1985 the United States Department of Interior, Bureau of Reclamation filed an application for the amendment of that permit to convert 152,300 acre feet of stored water from irrigation use to stream flow maintenance use which was granted the Department on February, 1985, the 152,300 acre feet to include the original 50,000 acre feet dedicated to maintenance of a winter time minimum flow in the Boise River; that following the execution of the agreement, which is Exhibit B attached to this petition, the Bureau filed an application with the Idaho Department of Water Resources to permit the use for irrigation purposes of 44,700 acre feet of the stream flow maintenance water during the 1987 irrigation season to accommodate the provisions of Exhibit B.

VI

That the immediate interest of Petitioners in the above entitled proceedings is to resist any claim asserted by the Settlers Irrigation District, Pioneer Irrigation District and Farmers Union Ditch Company which could interfere in any way with the enforcement of the provisions of the Agreement, a copy of which is attached hereto marked

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Exhibit B.

VII

That none of the Petitioners for Intervention herein were served with notice of the above entitled proceedings; that Petitioners are informed and believe, and therefore allege that this matter is set hearing for before the Department on the 15th day of May, 1987; but that no delay in the conduct of such proceedings will be occasioned by granting this Petition to Intervene.

Dated this 7th day of May, 1987.

Respectfully submitted,

CLEMONS, COSHO & HUMPHREY

By _____
Randall C. Fredricks

RINGERT, CLARK, HERRINGTON, REID CHRISTIANSEN & KAUFMAN

By _____
William F. Ringert

GIVENS, McDEVITT, PURSLEY, WEBB & BUSER

By _____
Raymond D. Givens

HAWLEY, TROXELL, ENNIS & HAWLEY

By _____
Don Olowinski

_____
Larry Sullivan

ATTORNEYS FOR PETITIONERS

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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

New York Irrigation District	)	Project No. 2832
Nampa - Meridian Irrigation District	)	
Boise - Kuna Irrigation District	)	
Wilder Irrigation District	)	
Big Bend Irrigation District	)	

ORDER ISSUING LICENSE (MAJOR)
(Issued June 10, 1980)

On January 26, 1979, Boise Project Board of Control (Applicant) 1/ filed an application for a major license under Part I of the Federal Power Act (Act) for the proposed Lucky Peak Power Plant Project No. 2832. 2/ The project would be located at and develop the water power potential of the United States Army Corps of Engineers' (Corps) Lucky Peak Dam, located on the Boise River in Ada County, Idaho, and would affect lands of the United States under the Corps' administration.

Notice of the application has been published in accordance with the Act. A protest was filed by the Idaho Department of Parks and Recreation on July 26, 1979, concerning the Applicant's failure to propose any recreational development.

PROJECT DESCRIPTION

The Lucky Peak Power Plant Project would be located at the downstream toe of the Corps' Lucky Peak Dam. 3/ The project would

---

1/ Boise Project Board of Control was formed by five member districts, to wit: New York Irrigation District, Nampa - Meridian Irrigation District, Boise - Kuna Irrigation District, Wilder Irrigation District, and Big Bend Irrigation District. By letter filed July 3, 1979, Boise Project Board of Control requested that the above named districts be designated, collectively, as the Applicant.

2/ Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation, under Section 375.308 of the Commission's regulations, 45 Fed. Reg. 21216 (1980), amending 44 Fed. Reg. 46449 (1979) and 18 C.F.R. 3.5(g) (1979).

3/ The Lucky Peak Dam, completed by the Corps in 1955, is a rolled-earth and gravel-filled structure 340 feet high and 1,700 feet long. The dam was constructed to provide irrigation and flood control. It impounds a reservoir with a usable storage capacity of about 278,200 acre-feet.

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(d) an amount equal to not less than 2.0 mills per kilowatt hour for each kilowatt of project generation in each calendar year.

In addition, IPC will construct the transmission lines from the point of delivery, the high voltage bus, to interconnect with IPC's existing distribution system. Based on the Memorandum of Understanding between IPC and the Applicant, and staff's analysis, the project is economically feasible.

TRANSMISSION FACILITIES AND USE OF PROJECT POWER

There would be no transmission facilities included under this license. An application was submitted on March 26, 1980, by IPC for the Lucky Peak Transmission Line Project No. 3104.

The power to be generated by the project would be used for irrigation purposes of the member districts. Surplus power would be sold to IPC for use in its service area. The City of Boise, Idaho urged that it be given preferential rates for additional energy demands required for upgrading the quality of wastewater discharged from its sewage treatment facilities into the Boise River. There is no express authorization in the Act for the Commission to require preferential rates for municipal purposes as a license condition and the City of Boise has offered no explanation, nor is it apparent, why the imposition of such a license condition requiring preferential treatment would be warranted under Section 10(g) of the Act. The imposition of such a requirement would not, under the circumstances, be appropriate.

WATER QUALITY AND MINIMUM FLOWS

Applicant has obtained a state water quality certificate for the Lucky Peak Project, in accordance with Section 401 of the Federal Water Pollution Control Act Amendment of 1972.

The City of Boise (City) and the U. S. Environmental Protection Agency recommended that a continuous minimum flow of 160 cubic feet per second be maintained to protect water quality standards and quality of fishing in the Boise River during the non-irrigation season. Applicant has agreed to release a continuous minimum flow of 160 cfs except during critical drought years as determined by State and Federal agencies responsible for water management of the Boise River. Article 35 requires the minimum flow. During critical drought years the Applicant may request of the Commission a temporary waiver of the minimum flow requirement.

RECREATION

Existing public recreation sites near the Lucky Peak Project area include: Discovery Picnic Area, owned and operated by Idaho Department of Parks and Recreation (IDPR); Observation Point (Overlook),

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or developing a waterway... for the improvement and utilization of water power development, and for other beneficial public uses, including recreational purposes; and if necessary in order to secure such plan the Commission shall have authority to require the modification of any project and of the plans and specifications of the project works before approval".

In light of the agency comments received, Applicant will be directed to conduct a study, in consultation with appropriate agencies, to determine the need for recreational development in the vicinity of the project and shall prepare a plan for developing recreation facilities that, based on the study completed, would be appropriately related to its hydropower development. This does not constitute prejudgment in advance of the required study what, if any, recreational development the licensee must undertake incident to the development of power at the Lucky Peak Project. It must, however, be made clear at this time that by retrofitting hydroelectric facilities to an existing dam, a licensee is not relieved of its recreational development responsibilities as a licensee under the Federal Power Act. It should also be noted that recreation facilities that are clearly related to the Federal development are the responsibility of the Corps.

The Exhibit R does not provide for the development of any recreational facilities at the project and therefore is not approved. Article 34 directs the filing of plans for developing any recreational facilities required as a result of the Licensee's study in consultation with appropriate agencies.

CULTURAL RESOURCES

The foundation of the home of Mary Hallock Foote, a novelist, is approximately 1,080 feet south of the project. This site has been nominated for inclusion in the National Register of Historic Places. Also, Bannock and Shoshone Tribes' artifacts have been salvaged from an archeological site near Lydle Gulch. The gulch extends southward from the river valley below the Lucky Peak Dam. The artifacts are being analyzed at the University of Idaho. Lydle Gulch is eligible for inclusion in the National Register of Historic Places. The State Historic Preservation Officer (SHPO) advised that the proposed project will have no effect on archeological or historic properties in the area that are eligible for inclusion in the National Register.

Interior recommended that Applicant be required to keep the SHPO informed of all excavations and construction activities at the project site. Interior also recommended that the Applicant contact the State Office of Archeology and Historic Preservation for consideration of any archeological salvage program should artifactual material be found during construction.

Article 33 details procedures to protect any cultural resources that may be affected by the project.

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purposes. There are no power generating facilities at this site. The Anderson Ranch Reservoir, located on the South Fork Boise River, which flows into Arrowrock Reservoir, has a storage capacity of 423,000 acre-feet allocated to flood control and irrigation purposes. WPRS operates a 27 MW Power Plant at this site.

Flow releases from Lucky Peak, Arrowrock, and Anderson Ranch are made in accordance with a coordinated operation plan as directed jointly by the Corps, WPRS, and the member irrigation districts.

The Lucky Peak Power Plant Project would develop the head created by the Lucky Peak Dam and use flows released from the reservoir for irrigation which are not now being used to generate power. It would use a non-polluting, reusable resource to produce annually an average of 282 million kWh of electric energy, saving the equivalent of approximately 463,000 barrels of oil or 131,000 tons of coal per year.

It is concluded that the proposed project is compatible with the water resource projects in the region, and under the terms of this license, is best adapted to the comprehensive development of the Boise River.

ANNUAL CHARGES

Section 10(e) of the Act, 16 U.S.C. Section 803(e) requires the Commission to fix a reasonable annual charge to be paid to the United States for the use of a government dam. The method used historically to arrive at a charge has been the "sharing of the net benefit method". The Applicant and Idaho Power Company have entered into a memorandum of understanding for the purchase of the project's power output. Under the terms of that agreement, submitted by letter dated April 4, 1980, Idaho Power Company agreed to pay projects costs, including operation and maintenance costs and government dam use charges assessed in this license. In addition, the Company agreed to pay the Applicant benefits of at least 2 mills per kWh, subject to certain adjustments based on future Idaho Power Company steam plant construction and fuel costs and charges in operation and maintenance costs of the Lucky Peak Project. Based on the concept that the Applicant and the United States should equally share the benefits derived from power developments using government dams, the benefits to the United States would be the same as those described above that would accrue to the Applicant. Therefore, the annual charge for use of the Corps' Lucky Peak Dam would be $564,000. The Commission's staff is currently reassessing the subject of annual charges for use of government dams for the purpose of making recommendation to the Commission. Therefore, a final determination of the charge for the use of the Lucky Peak Dam will be reserved. Article 41 provides for subsequent determination of that charge, which will be not more than $564,000.

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Exhibit M containing general specifications of mechanical, electrical, and transmission equipment and consisting of 3 pages filed on January 26, 1979.

Exhibit S consisting of 31 pages filed January 26, 1979.

(3) All of the structures, fixtures, equipment, or facilities used or useful in the operation or maintenance of the project and located within the project boundary, all portable property that may be employed in connection with the project, whether located within or outside the project boundary, as approved by the Commission, and all riparian or other rights necessary or appropriate in the operation or maintenance of the project.

(C) Exhibits J, K, L, and M designated in ordering paragraph (B) above, are approved and made a part of the license only to the extent that they show the basic location and layout of the project and its works and generally describe its mechanical and electrical equipment and appurtenances. Exhibit S, designated in ordering paragraph (B) above, is approved and made a part of the license.

(D) This license is also subject to the terms and conditions designated Articles 1 through 32 in Form L-2 (revised October 1975), entitled "Terms and Conditions of License for Unconstructed Major Project Affecting Lands of the United States," attached to and made a part of this license. This license is also subject to the following special conditions set forth as additional articles:

Article 33. Prior to the commencement of any construction or development of any project works or other facilities at the project, the Licensee shall consult and cooperate with the State Historic Preservation Officer (SHPO) to determine the need for, and extent of, any archeological or historic resource surveys and any mitigative measures that may be necessary. The Licensee shall provide funds in a reasonable amount for such activity. If any previously unrecorded archeological or historic sites are discovered during the course of construction, construction activity in the vicinity shall be halted, a qualified archeologist shall be consulted to determine the significance of the sites, and the Licensee shall consult with the SHPO to develop a mitigation plan for the protection of significant archeological or historic resources. If the Licensee and the SHPO cannot agree on the amount of money to be expended on archeological or historic work related to the project, the Commission reserves the right to require the Licensee to conduct, at its own expense, any such work found necessary.

Article 34. Licensee shall, in consultation with the Idaho Department of Parks and Recreation, the U. S. Army Corps of Engineers, and the Heritage Conservation and Recreation Service of the U. S. Department of the Interior, conduct a study to determine the need for recreational development in the vicinity of its hydroelectric

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Article 41. The Licensee shall pay the United States the following annual charges, to be assessed according to this schedule: (a) 5.5% of each charge effective from the date the 4,860-kW (rated) unit begins commercial operation; (b) 37% of each charge effective from the date a 27,540-kW (rated) unit begins commercial operation; (c) 68.5% of each charge effective from the date the next 27,540-kW unit begins commercial operation; and (d) 100% of each charge when all generating units are in commercial operation.

1) For the purpose of reimbursing the United States for the cost of administration of Part I of the Act, a reasonable annual charge as determined by the Commission in accordance with its regulations in effect from time to time. The total authorized installed capacity for that purpose is 116,640 horsepower.

2) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands, a reasonable annual charge as determined by the Commission in accordance with its regulations in effect from time to time. The acreage of United States lands for that purpose will be determined after submision of "as-built" exhibits for approval.

3) For the purpose of recompensing the United States for the use of Lucky Peak Dam, an amount to be determined later and that shall not exceed $564,000, subject to possible adjustment at the intervals specified in Section 10(e) of the Act.

Article 42. The Licensee shall reimburse the United States for all reasonable construction costs incurred by the United States for the specific and sole purpose of accomodating the installation of power facilities at the Lucky Peak Dam. This reimbursement is in addition to the annual charge specified in paragraph (3) of Article 41. Arrangements for payment shall be made with the Chief of Engineers, Department of the Army, at the time of commencement of construction of the project.

Article 43. Within one year after commencement of operation of the project, the Licensee shall file for approval Exhibits A, F, and G conforming to §4.51 of the Commission's regulations, as amended, 44 Fed. Reg. 67644 (November 29, 1979), to describe and show the project works and facilities as constructed. Exhibits A, F, and G, when approved, will supersede the Exhibits J, K, L, and M approved as part of this license.

Article 44. If the Commission has not finally determined the amount of the annual charge for the use of the Lucky Peak Dam by the time when the first generating unit begins commercial operation, the Licensee shall establish and shall maintain, until the Commission has finally determined that amount and the accumulated annual charges have been paid, a reserve sufficient to meet its potential liability for the accumulated annual charges for the use of the Lucky Peak Dam.

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implementing this paragraph (b) and to require modifications of those standards, guidelines, or procedures.

(c) The Licensee may convey easements or rights-of-way across, or leases of, project lands for: (1) replacement, expansion, realignment, or maintenance of bridges and roads for which all necessary State and Federal approvals have been obtained; (2) storm drains and water mains; (3) sewers that do not discharge into project waters; (4) minor access roads; (5) telephone, gas, and electric utility distribution lines; (6) non-project overhead electric transmission lines that do not require erection of support structures within the project boundary; (7) submarine, overhead, or underground major telephone distribution cables or major electric distribution lines (69-kV or less); and (8) water intake or pumping facilities that do not extract more than one million gallons per day from a project reservoir. No later than January 31 of each year, the Licensee shall file three copies of a report briefly describing for each conveyance made under this paragraph (c) during the prior calendar year, the type of interest conveyed, the location of the lands subject to the conveyance, and the nature of the use for which the interest was conveyed.

(d) The Licensee may convey fee title to, easements or rights-of-way across, or leases of project lands for: (1) construction of new bridges or roads for which all necessary State and Federal approvals have been obtained; (2) sewer or effluent lines that discharge into project waters, for which all necessary Federal and State water quality certificates or permits have been obtained; (3) other pipelines that cross project lands or waters but do not discharge into project waters; (4) non-project overhead electric transmission lines that require erection of support structures within the project boundary, for which all necessary Federal and State approvals have been obtained; (5) private or public marinas that can accommodate no more than 10 watercraft at a time and are located at least one-half mile from any other private or public marina; (6) recreational development consistent with an approved Exhibit R or approved report on recreational resources of an Exhibit E; and (7) other uses, if: (i) the amount of land conveyed for a particular use is five acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from the edge of the project reservoir at normal maximum surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d)(7) in any calendar year. At least 45 days before conveying any interest in project lands under this paragraph (d), the Licensee must file a letter to the Director, Office of Electric Power Regulation, stating its intent to convey the interest and briefly describing the type of interest and location of the lands to be conveyed (a marked Exhibit G or K map may be used), the nature of the proposed use, the identity of any Federal or

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(E) This order is final unless within 30 days from the date of its issuance a petition appealing it to the Commission is filed, as provided in §1.7(d) of the Commission's regulations, 18 C.F.R. 1.7(d) (1979), as amended, 44 Fed. Reg. 46449(1979). The filing of a petition appealing this order to the Commission or an application for rehearing as provided in Section 313(a) of the Act does not operate as a stay of the effective date of this license or of any other date specified in this order, except as specifically ordered by the Commission. The Licensee's failure to file a petition tion appealing this order to the Commission shall constitute acceptance of this license. In acknowledgment of acceptance of this license and its terms and conditions, it shall be signed by the Licensee and returned to the Commission within 60 days from the date this order is issued.

(S E A L)

William W. Lindsay
Director, Office of Electric
Power Regulation

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Form L-2
(Revised October, 1975)

FEDERAL ENERGY REGULATORY COMMISSION

TERMS AND CONDITIONS OF LICENSE FOR UNCONSTRUCTED MAJOR PROJECT AFFECTING LANDS OF THE UNITED STATES

Article 1. The entire project, as described in this order of the Commission, shall be subject to all of the provisions, terms, and conditions of the license.

Article 2. No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: Provided, however, That if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval a revised, or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

Article 3. The project works shall be constructed in substantial conformity with the approved exhibits referred to in Article 2 herein or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, there shall not be made without prior approval of the Commission any substantial alteration or addition not in conformity with the approved plans to any dam or other project works under the license or any substantial use of project lands and waters not authorized herein; and any emergency alteration, addition, or use so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in project works, or in uses of project lands and waters, or divergence from such approved exhibits may be made if such changes will not result in a decrease in efficiency, in a material increase in cost, in an adverse environmental impact, or in impairment of the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct.

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Article 5. The Licensee, within five years from the date of issuance of the license, shall acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction, maintenance, and operation of the project. The Licensee or its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and none of such properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands or property without specific written approval of the Commission pursuant to the then current regulations of the Commission. The provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear; and mortgage or trust deeds or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article.

Article 6. In the event the project is taken over by the United States upon the termination of the license as provided in Section 14 of the Federal Power Act, or is transferred to a new licensee or to a non-power licensee under the provisions of Section 15 of said Act, the Licensee, its successors and assigns shall be responsible for, and shall make good any defect of title to, or of right of occupancy and use in, any of such project property that is necessary or appropriate or valuable and serviceable in the maintenance and operation of the project, and shall pay and discharge, or shall assume responsibility for payment and discharge of, all liens or encumbrances upon the project or project property created by the Licensee or created or incurred after the issuance of the license: Provided, That the provisions of this article are not intended to require the Licensee, for the purpose of transferring the project to the United States or to a new licensee, to acquire any different title to, or right of occupancy and use in, any of such project property than was necessary to acquire for its own purposes as the Licensee.

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Article 10. The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.

Article 11. Whenever the Licensee is directly benefited by the construction work of another licensee, a permittee, or the United States on a storage reservoir or other headwater improvement, the Licensee shall reimburse the owner of the headwater improvement for such part of the annual charges for interest, maintenance, and depreciation thereof as the Commission shall determine to be equitable, and shall pay to the United States the cost of making such determination as fixed by the Commission. For benefits provided by a storage reservoir or other headwater improvement of the United States, the Licensee shall pay to the Commission the amounts for which it is billed from time to time for such headwater benefits and for the cost of making the determinations pursuant to the then current regulations of the Commission under the Federal Power Act.

Article 12. The operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes, and the Licensee shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the Commission may prescribe for the purposes hereinbefore mentioned.

Article 13. On the application of any person, association, corporation, Federal agency, State or municipality, the Licensee shall permit such reasonable use of its reservoir or other project properties, including works, lands and water rights, or parts thereof, as may be ordered by the Commission, after notice and opportunity

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Article 16. Whenever the United States shall desire, in connection with the project, to construct fish and wildlife facilities or to improve the existing fish and wildlife facilities at its own expense, the Licensee shall permit the United States or its designated agency to use, free of cost, such of the Licensee's lands and interests in lands, reservoirs, waterways and project works as may be reasonably required to complete such facilities or such improvements thereof. In addition, after notice and opportunity for hearing, the Licensee shall modify the project operation as may be reasonably prescribed by the Commission in order to permit the maintenance and operation of the fish and wildlife facilities constructed or improved by the United States under the provisions of this article. This article shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Licensee of any obligation under this license.

Article 17. The Licensee shall construct, maintain, and operate, or shall arrange for the construction, maintenance, and operation of such reasonable recreational facilities, including modifications thereto, such as access roads, wharves, launching ramps, beaches, picnic and camping areas, sanitary facilities, and utilities, giving consideration to the needs of the physically handicapped, and shall comply with such reasonable modifications of the project, as may be prescribed hereafter by the Commission during the term of this license upon its own motion or upon the recommendation of the Secretary of the Interior or other interested Federal or State agencies, after notice and opportunity for hearing.

Article 18. So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of such lands and waters for navigation and for outdoor recreational purposes, including fishing and hunting: Provided, That the Licensee may reserve from public access such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property.

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Article 22. The Licensee shall do everything reasonably within its power, and shall require its employees, contractors, and employees of contractors to do everything reasonably within their power, both independently and upon the request of officers of the agency concerned, to prevent, to make advance preparations for suppression of, and to suppress fires on the lands to be occupied or used under the license. The Licensee shall be liable for and shall pay the costs incurred by the United States in suppressing fires caused from the construction, operation, or maintenance of the project works or of the works appurtenant or accessory thereto under the license.

Article 23. The Licensee shall interpose no objection to, and shall in no way prevent, the use by the agency of the United States having jurisdiction over the lands of the United States affected, or by persons or corporations occupying lands of the United States under permit, of water for fire suppression from any stream, conduit, or body of water, natural or artificial, used by the Licensee in the operation of the project works covered by the license, or the use by said parties of water for sanitary and domestic purposes from any stream, conduit, or body of water, natural or artificial, used by the Licensee in the operation of the project works covered by the license.

Article 24. The Licensee shall be liable for injury to, or destruction of, any buildings, bridges, roads, trails, lands, or other property of the United States, occasioned by the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto under the license. Arrangements to meet such liability, either by compensation for such injury or destruction, or by reconstruction or repair of damaged property, or otherwise, shall be made with the appropriate department or agency of the United States.

Article 25. The Licensee shall allow any agency of the United States, without charge, to construct or permit to be constructed on, through, and across those project lands which are lands of the United States such conduits, chutes, ditches, railroads, roads, trails, telephone and power lines, and other routes or means of transportation and communication as are not inconsistent with the enjoyment

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Article 29. The Licensee shall cooperate with the United States in the disposal by the United States, under the Act of July 31, 1947, 61 Stat. 681, as amended (30 U.S.C. sec. 601, et seq.), of mineral and vegetative materials from lands of the United States occupied by the project or any part thereof: Provided, That such disposal has been authorized by the Commission and that it does not unreasonably interfere with the occupancy of such lands by the Licensee for the purposes of the license: Provided further, That in the event of disagreement, any question of unreasonable interference shall be determined by the Commission after notice and opportunity for hearing.

Article 30. If the Licensee shall cause or suffer essential project property to be removed or destroyed or to become unfit for use, without adequate replacement, or shall abandon or discontinue good faith operation of the project or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission mailed to the record address of the Licensee or its agent, the Commission will deem it to be the intent of the Licensee to surrender the license. The Commission, after notice and opportunity for hearing, may require the Licensee to remove any or all structures, equipment and power lines within the project boundary and to take any such other action necessary to restore the project waters, lands, and facilities remaining within the project boundary to a condition satisfactory to the United States agency having jurisdiction over its lands or the Commission's authorized representative, as appropriate, or to provide for the continued operation and maintenance of nonpower facilities and fulfill such other obligations under the license as the Commission may prescribe. In addition, the Commission in its discretion, after notice and opportunity for hearing, may also agree to the surrender of the license when the Commission, for the reasons recited herein, deems it to be the intent of the Licensee to surrender the license.

Article 31. The right of the Licensee and of its successors and assigns to use or occupy waters over which the United States has jurisdiction, or lands of the United States under the license, for the purpose of maintaining the project works or otherwise, shall absolutely cease at the end of the license period, unless the Licensee has obtained a new license pursuant to the then existing laws and regulations, or an annual license under the terms and conditions of this license.

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MAY 3 1984
Clemons, Cosho & Humphrey, P.A.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

New York Irrigation District	)	Project No. 2832-003
Nampa - Meridian Irrigation District	)	
Boise - Kuna Irrigation District	)	
Wilder Irrigation District	)	
Big Bend Irrigation District	)	

RECEIVED
APR 27 1984
BOISE PROJECT BOARD OF CONTROL

ORDER APPROVING REVISED EXHIBIT DRAWINGS
AND AMENDING LICENSE

(Issued April 20, 1984)

The Boise Project Board of Control (Board),1/ has filed an application for amendment of its license for the Lucky Peak Power Plant Project No. 2832, located at the existing U. S. Army Corps of Engineers' Lucky Peak Dam in Ada County, Idaho.2/

The application includes revised Exhibits J, K and L drawings, which collectively portray a new diversion and outlet tunnel in lieu of a new power tunnel as licensed, and modification of the existing outlet tunnel to be utilized as both a power tunnel and an outlet tunnel. The Board stated that changes in the licensed project features were required in order to obtain the approval of the U. S. Army Corps of Engineers' (Corps) as stipulated in Article 37 of the license.

1/ Boise Project Board of Control was formed by five member districts, to wit: New York Irrigation District, Nampa - Meridian Irrigation District, Boise - Kuna Irrigation District, Wilder Irrigation District, and Big Bend Irrigation District These five member irrigation Districts are collectively the Licensee for the Lucky Peak Power Plant Project No. 2832 (Order issuing License, issued June 10, 1980), and are the applicant in this proceeding.

2/ Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation, under §375.308 of the Commission's regulations, 18 C.F.R. §375.308 (1983), FERC Statutes and Regulations ¶30,238. This order may be appealed to the Commission by any party within 30 days of its issuance pursuant to Rule 1902, 18 C.F.R. 385.1902, FERC Statutes and Regulations ¶29,052 47 Fed. Reg. 19014 (1982). Filing an appeal and final Commission action on that appeal are prerequisites for filing an application for rehearing as provided in Section 313(a) of the Act. Filing an appeal does not operate as a stay of the effective date of this order or any other date

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In lieu of constructing a separate power tunnel adjacent to the existing tunnel, the Board proposes to line the existing tunnel with a 1-inch-thick, 21-foot-diameter, steel liner and grout the space between the existing tunnel and new steel liner. The penstock would attach to the tunnel liner and consist of a 20-foot-diameter steel lined cast-in-place concrete pipe, manifold, three 10-foot-diameter pipes and one 4.5-foot-diameter pipe.

To provide reservoir releases during emergencies, the Board proposes a new intake structure, diversion and outlet tunnel, and outlet works to be constructed on the south abutment of the dam. The concrete and steel lined tunnel will be approximately 1650 feet long and have an inside diameter of 12 feet. The outlet works would consist of a stilling basin and chute which would discharge into the Boise River.

The Corps has reviewed the revised plan and approved the design concept. Further, the Corps review of the plans indicates that it would not be inconsistent with or in conflict with the authorized purposes of the project as specified in the Flood Control Act of 1946 and the Water Resources Development Act of 1976. To ensure that the construction and operation of the diversion tunnel will be compatible with the authorized purposes of the Corps project, and will be at no cost to the Federal Government, Article 47 will be added to the license.

It is determined that the Board's request is in the public interest and, therefore, will be granted.

It is ordered that:

(A) The license for Project No. 2832 is amended to include a new diversion and outlet tunnel in lieu of a new power tunnel, and to include modification of the existing outlet tunnel for use as both a power and outlet tunnel.

(B) Ordering Paragraph (B)(2) of the Order Issuing License (Major), issued June 10, 1980, is revised to read as follows:

> (2) Project works consisting of: (1) a concrete intake structure; (2) an existing 1,050-foot-long, 21-foot-diameter concrete and steel-lined tunnel; (3) an outdoor type powerhouse containing three Francis turnbines, directly connected to three generators each rated at 27.54 MW and one Francis turbine directly connected to a generator rated at 4.86 MW; (4) step up transformers; (5) 13.8/138 kV generator leads; (6) a 1,650-foot-long, 12-foot-diameter concrete and steel lined diversion tunnel with a stilling basin and outlet chute; and (7) appurtenant facilities.

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(C) The following exhibit drawings filed on March 26, 1984, are approved and made a part of the license superseding the exhibit drawings noted:

EXHIBIT	FERC NO. 2832-	TITLED	SUPERSEDING FERC NO. 2832-
J	6	Location Map	2
K-1	7	Site Plan	3
K-2	8	Site Plan	-
L	9	General Design Drawings and Descriptive Information Information	-
L-1	10	Intake, Tunnel and Powerhouse Cross Sections	4
L-2	11	Powerhouse - Plans and Section	5
L-3	12	Diversion and Outlet Tunnel - Plans and Sections	-

(D) The superseded exhibit drawings are deleted from the license.

(E) Within 90 days of the date of issuance of this order, the Licensee shall file originals of the approved Exhibit drawings reproduced on silver or gelatin 35 mm microfilm mounted on type D (3 3/4" x 7 3/8") aperture cards for each drawing. In addition, the Licensee shall file two Diazo-type duplicate aperture cards. FERC drawing numbers shall be shown in the margin below the title block of the microfilmed drawings, and also in the upper right corner of each card.

(F) The following article is added to and made a part of the license for the Lucky Peak Power Plant Project No. 2832:

Article 47. In order to ensure that the construction and operation of the diversion tunnel will not conflict with the authorized purposes of the Federal Lucky Peak Project, the licensee shall include in an agreement with the U. S. Army Corps of Engineers, procedures for diversion tunnel construction, operation, maintenance, and control at no cost to the Federal Government.

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(G) The Licensee's failure to file a petition appealing this order to the Commission shall constitute acceptance of this amendment. In acknowledgment of acceptance of this order and its terms and conditions, it shall be signed by the Licensees and returned to the Commission within 60 days from the date this order is issued.

FOR Lawrence R. Anderson
Director, Office of Electric
Power Regulation

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Project No. 2832

IN TESTIMONY of its acknowledgment of acceptance of all of the terms and conditions of this order, Nampa and Meridian Irrigation District this 1st day of May, 1984, has caused its corporate name to be signed hereto by John J Gale, its _____ President, and its corporate seal to be affixed hereto and attested by David G Overman its _____ Secretary, pursuant to a resolution of its Board of Directors duly adopted on the 1st day of May 1984, a certified copy of the record of which is attached hereto.

By John J. Gale
President

Attest:

David G. Overman
Secretary

(Executed in quadruplicate)

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Project No. 2832

IN TESTIMONY of its acknowledgment of acceptance of all of the terms and conditions of this order, Boise - Kuna Irrigation District this 1st day of May, 1984, has caused its corporate name to be signed hereto by Carl L German, its Chairman ~~President,~~ and its corporate seal to be affixed hereto and attested by Eula M. Cole its _____ Secretary, pursuant to a resolution of its Board of Directors duly adopted on the 1st day of May 1984, a certified copy of the record of which is attached hereto.

By Carl L German
President

Attest:

Eula M. Cole
Secretary

(Executed in quadruplicate)

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United States Department of the Interior

BUREAU OF RECLAMATION
CENTRAL SNAKE PROJECTS OFFICE
214 BROADWAY AVENUE
BOISE, IDAHO 83702

IN REPLY
REFER TO: 400
651.

June 26, 1986

Mr. Carl Padour, Manager
Boise Project Board of Control
214 Broadway Avenue
Boise, Idaho 83702

Subject: 1986-87 Lucky Peak Drawdown

Dear Mr. Padour:

In order to accommodate the Lucky Peak Powerplant construction with the requested elevations outlined by your letter of May 8, 1986, for the period August 4, 1986, through January 10, 1987, adjustments in the total Boise System operation must be made. Many of the ramifications of this schedule were discussed at the May 28, 1986, meeting in your office. Without going into all of the operational changes that will be required to meet the requested elevations for Lucky Peak, it must be understood that any water released above the irrigation requirements because of the requested elevations, before the end of the 1986 irrigation season will be charged to the system space held by the districts involved in the powerplant construction. In addition, after the 1986 irrigation season any water released above the 150 ft^3/s minimum flow from Lucky Peak, which cannot be stored because of the requested elevations and the resulting impact on flood control needs, will be charged to the system space held by the districts involved in the powerplant construction. Space held by these districts equivalent to these amounts will have the last refill priority to all other storage in the system, including the non-contracted or streamflow maintenance space in Lucky Peak. This will prevent injury to other storage rights and users in the system not involved in the powerplant project. We will notify you of the amount that is being charged to the districts involved in the construction, so that you may make any change in the construction schedule of elevations needed at Lucky Peak.

In the event space held by the districts involved in the powerplant construction (herein B.O.C.) does not fill in 1987 as a result of the events described above, the Bureau of Reclamation on the B.O.C.'s request will make a portion of its streamflow maintenance water available on the following conditions

INCORPORATED

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EXHIBIT B

(1) In the event during the 1986-87 storage season the B.O.C.'s space fails to fill by more than 10,000 acre-feet, the Bureau, up to a maximum of 44,700 acre-feet, will make its streamflow maintenance water available during the 1987 irrigation season to cover 50 percent of such shortage, provided however, no streamflow maintenance water will be made available to provide irrigation carry over for the 1988 irrigation season.

(2) The B.O.C. agrees to subordinate its water rights to the extent necessary to repay the Bureau's streamflow maintenance space as follows:

(a) During the 1987-88 storage season, the first waters accruing to the B.O.C.'s space will be transferred to the Bureau's streamflow maintenance space in Lucky Peak Reservoir so that 28,800 acre-feet will be available for release from October 15, 1988, to April 15, 1989. A similar transfer will be made during the 1988-89 storage season provided that the transfer during the 1988-89 storage season shall be sufficient to repay the full amount of water borrowed in 1987.

(b) The maximum repayment required from the B.O.C. will be the amount borrowed from the streamflow maintenance space in the 1987 irrigation season, provided however:

(i) As consideration for making water from the streamflow maintenance account available to the B.O.C. as provided above, the B.O.C. will transfer to the Bureau of Reclamation's streamflow maintenance account a volume of water in addition to the quantity borrowed in the event and to the extent that there exists a shortage in the Bureau of Reclamation's account necessary to permit releases of 80 ft^3/s (28,800 acre-feet) from October 15, 1989, to April 15, 1990. Assuming the streamflow maintenance account fills in 1986, there is now a sufficient amount of water in the account to make diversions during the release periods from 1986 to 1989, with only 15,900 acre-feet available for the October 15, 1989, - April 15, 1990, release period. The maximum transfer prior to and during the above release period will not exceed 12,900 acre-feet under this sub-paragraph.

(ii) In the event the system fills at any time from the date hereof to April 15, 1990, these conditions will terminate and no further repayment of space will be required.

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MAR 10 1988

If this understanding is acceptable to the Board of Control, I would appreciate your indicating such by having the Chairman of the Boise Project Board of Control sign the concurrence line on the bottom of this letter and return it to me as soon as possible.

Sincerely yours,

Neil Steinman

Project Superintendent

CONCUR

Via Lou L Mugaas

Chairman, Boise Project Board of Control

July 25, 1986

Date

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MAR 10 1988

CERTIFICATE OF HAND DELIVERY

THE UNDERSIGNED does hereby certify that he caused a copy of the attached Petition in Intervention to be hand delivered on the 8th day of May, 1987 to the following named person:

Mr. Scott Campbell
ELAM, BURKE & BOYD
1010 First Interstate Building
Boise, Idaho 83702

RAYMOND D. GIVNS

MICROFILMED
MAR 10 1988

United States Department of the Interior

OFFICE OF THE SOLICITOR
PACIFIC NORTHWEST REGION
BOISE FIELD OFFICE
FEDERAL BUILDING & U.S. COURTHOUSE
BOX 020-550 WEST FORT STREET
BOISE, IDAHO 83724

IN REPLY
REFER TO:

MAY 5 1987

RECEIVED
MAY 6 1987
Department of Water Resources
Western Regional Office

LBR.BO.0173

HAND DELIVERED

Mr. Scott L. Campbell
Elam, Burke, and Boyd
702 West Idaho
P.O. Box 1559
Boise, Idaho 83701

RE: Protest of U.S. Bureau of Reclamation, Application to Amend Water Permit No. 63-3618

Dear Mr. Campbell:

Jack Hansen, Neil Stessman, and I would like to thank you for your hospitality during yesterday's 7-hour series of depositions. As I indicated at the close of those depositions, the Bureau of Reclamation will utilize its best efforts to assist you in completing your discovery depositions in advance of the May 15 hearing. With that in mind, I am confirming in writing the availability of the Bureau witnesses you yesterday asked to depose. The following information was given to your Secretary at 10 a.m. this morning by telephone.

Tuesday, May 5, afternoon	- Rich Rigby or John Keys
Wednesday, May 6, 1 p.m.	- Continuation of Neil Stessman
Thursday, May 7, 1 p.m.	- Continuation of Neil Stessman (if necessary); Rich Rigby
Friday, May 8, a.m.	- Joe Wensman
Friday, May 8, 12-1 p.m.	- John Keys (prefer at Fed. Bldg.)
2:30-Completion	- John Keys

If your schedule opens up Wednesday or Thursday morning, Mr. Wensman or Mr. Rigby may be available on a fill-in basis.

The Bureau of Reclamation does not want to continue the May 15 hearing date. The Bureau feels it is of paramount importance that the protest be resolved as soon as possible to give water

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MAR 10 1988

users assurance of available water supplies this water short irrigation season. Should you desire to confirm any times or dates or to schedule any further depositions the week of May 10, please let me know as soon as possible.

Sincerely yours,

Jack Hockberger

John J. Hockberger, Jr.
Attorney

cc: David R. Tuthill, Jr., P.E., Manager, Western Regional Office, Department of Water Resources, 2735 Airport Way, Boise, Idaho 83705

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MAR 10 1988

ELAM, BURKE AND BOYD
ATTORNEYS AND COUNSELORS AT LAW

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ROBERT M. TYLER, JR.
JAMES D. LARUE
RANDALL A. PETERMAN
WILLIAM J. RUSSELL
KAYE L. O'RIORDAN
RYAN P. ARMBRUSTER
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KENNETH M. SEBBY
TRUDY HANSON FOUSER
D. ALAN KOFOED
SCOTT L. CAMPBELL
BOBBI KILLIAN DOMINICK
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ELAINE D. HANSON
JEFFERY J. VENTRELLA
BRENDA G. MEIER
JOHN J. JANIS
WENDY E.D. SMITH*
*PENN. & D.C. BARS ONLY

DMT

May 5, 1987

VIA HAND DELIVERY

RECEIVED
MAY 6 1987
Department of Water Resources
Western Regional Office

John J. Hockberger, Jr.
U.S. Department of the Interior
Office of the Solicitor
Pacific Northwest Regional
Boise Field Office
Federal Building
Box 020-550 W. Fort Street
Boise, ID 83724

Re: Application of U.S. Bureau of Reclamation
to Amend Water Permit No. 63-3618

Dear Mr. Hockberger:

Thank you for your hand-delivered correspondence of May 5, 1987, which I received at 1:30 p.m. today.

I appreciate your confirming in writing the availability of witnesses which I asked to depose yesterday, May 4, 1987. As I indicated during that conversation on May 4, at this time I believe those are the additional employees of the Bureau of Reclamation which may have pertinent information related to this controversy. Other individuals may be identified during the course of the upcoming depositions, in which case I may need to depose those individuals also.

While I will make every effort to complete the required depositions prior to May 15, 1987, so that we can proceed to hearing at that time, as I indicated to you, my calendar does contain matters which I may not be able to reschedule in order to accommodate this accelerated discovery process with respect to this matter.

Additionally, as your May 5, 1987, correspondence indicates, the schedules of Messrs. Stessman, Rigby, Keys, and Wensman will require significant coordination in order to permit their depositions being taken.

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MAR 10 1988

Again, I would like to emphasize that I will make every reasonable effort to complete the required discovery prior to the May 15 hearing date. As I indicated on May 4, however, if it is not possible to complete the required discovery prior to that time, I will reserve the right to request an extension of a reasonable period of time for the hearing date in order to complete the necessary discovery which I deem appropriate. In view of the fact that I received formal notice of the scheduling of this hearing on May 1, 1987, a mere two weeks before the scheduled hearing date, I do not believe a reasonable delay in the conduct of the hearing is inappropriate in view of the time constraints involved in completing the discovery which involves this matter. I assure you, however, that I will only make such a request if it becomes absolutely necessary.

Thank you for your continued cooperation with respect to the scheduling of the employees of the Bureau of Reclamation for deposition.

Very truly yours,

ELAM, BURKE AND BOYD

Scott L. Campbell

SLC:ls
cc: Mr. David Tuthill, Jr., P.E.
Board of Directors, Pioneer Irrigation
Board of Directors, Settler's Irrigation
Ms. Hazel Robinson
Ms. Vicki Keen

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MAR 10 1988

P 300 238 798

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL
(See Reverse)

SENT TO Scott L. Campbell
ELAM, BURKE and Boyd
STREET AND NO. Attorney + Counselor of Law
First Interstate Bldg.
P.O. STATE AND ZIP CODE P.O. Box 1539
Boise, ID 83701

POSTAGE	$
CERTIFIED FEE	1.67 ¢
SPECIAL DELIVERY	¢
RESTRICTED DELIVERY	¢
SHOW TO WHOM AND DATE DELIVERED	¢
SHOW TO WHOM, DATE AND ADDRESS OF DELIVERY	¢
SHOW TO WHOM AND DATE DELIVERED WITH RESTRICTED DELIVERY	¢
SHOW TO WHOM, DATE AND ADDRESS OF DELIVERY WITH RESTRICTED DELIVERY	¢
TOTAL POSTAGE AND FEES	$ 1.67

CONSULT POSTMASTER FOR FEES
OPTIONAL SERVICES
RETURN RECEIPT SERVICE

POSTMARK OR DATE

RECEIVED MAR 10 1988

PS Form 3800, Apr. 1976

P 300 238 797

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL
(See Reverse)

SENT TO U.S. Dept of Interior
STREET AND NO. Bureau of Reclamation
Attn: 424 Box 043
P.O. STATE AND ZIP CODE 550 W. Fort St.
Boise, ID 83724

POSTAGE	$
CERTIFIED FEE	1.67 ¢
SPECIAL DELIVERY	¢
RESTRICTED DELIVERY	¢
SHOW TO WHOM AND DATE DELIVERED	¢
SHOW TO WHOM, DATE AND ADDRESS OF DELIVERY	¢
SHOW TO WHOM AND DATE DELIVERED WITH RESTRICTED DELIVERY	¢
SHOW TO WHOM, DATE AND ADDRESS OF DELIVERY WITH RESTRICTED DELIVERY	¢
TOTAL POSTAGE AND FEES	$ 1.67

CONSULT POSTMASTER FOR FEES
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RETURN RECEIPT SERVICE

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RECEIVED MAR 14 1988

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region

Cecil D. Andrus
Governor

2735 Airport Way
Boise, Idaho 83705
(208) 334-2190

April 30, 1987

U.S. Department of Interior
Bureau of Reclamation
Attn: 424 Box 043
550 W. Fort St.
Boise, ID 83724

Scott L. Campbell
ELAM, BURKE and BOYD
Attorneys and Counselors at Law
First Interstate Bldg.
P.O. Box 1559
Boise, ID 83701

Re: Application for Amendment of Permit No. 63-3618 in the Name of the United States Bureau of Reclamation

Gentlemen:

On April 7, 1987 this office sent to each of the above-referenced parties an acknowledgment of the receipt of a protest on behalf of Settlers Irrigation District and Pioneer Irrigation District to "the issuance of a permit." The first purpose of this letter is to correct this statement, to acknowledge that the protest was in opposition to the above-referenced Application for Amendment.

The second purpose of this letter is to convey the enclosed Notice of Hearing and/or Conference in this matter.

Sincerely,

David R. Tuthill, Jr.

DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

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MAR 10 1988

DRT:jp

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR AMENDMENT OF PERMIT NO. 63-3618 IN THE NAME OF THE UNITED STATES OF AMERICA, PACIFIC NORTHWEST REGION, BUREAU OF RECLAMATION	NOTICE OF HEARING AND/OR CONFERENCE

On March 12, 1987, The United States of America, Pacific Northwest Region, Bureau of Reclamation, filed with the Department of Water Resources an Application for Amendment of Permit No. 63-3618, to appropriate the public waters of the State of Idaho. On April 6, 1987, the Department received a protest against approval of the said application for amendment from Scott L. Campbell, attorney for Settlers Irrigation District and the Pioneer Irrigation District.

The Department has set the matter of protest for hearing for Friday, May 15, 1987, at 9:00 a.m. in the Third Floor Conference Room, State Towers Building, 450 W. State St., Boise, Idaho, 83720. The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved. A pre-hearing conference may be held beginning at the above set time and prior to the hearing.

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MAR 10 1988

Dated this 30th day of April, 1987.

David R. Tuthill Jr.

DAVID R. TUTHILL, JR., P.E.

Manager, Western Regional Office

CONFERENCE AND HEARING INFORMATION IN THE
MATTER OF APPROVAL OF AN AMENDED APPLICATION FOR PERMIT

In accordance with Idaho Code, Section 42-203, the following issues are involved in the consideration of the amended application and protest(s):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes at the expense of the requesting party. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be submitted to the parties and the parties may be afforded an opportunity to file exceptions to the proposed decision and present briefs and oral arguments to the Director prior to the issuance of a final decision by the Director. This procedure is required by Idaho Code, Section 42-1701A.

The parties by written stipulation may waive their right to a proposed decision, however, the failure of either party to waive a proposed decision will not prejudice the Director's review of a party's evidence and arguments. However, such a waiver will shorten the decision-making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 42-1701A is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to Rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the district court.

Under the provisions of the Idaho Code, Sections 42-1701A and 67-5215, any court review of the Department's decision on appeal shall be confined to the record created before the Department.

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Failure to appear at the time and place set for hearing by the applicant or protestant(s) may allow the Department to dismiss without prejudice the protest(s) or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

ELAM, BURKE AND BOYD
ATTORNEYS AND COUNSELORS AT LAW

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WENDY E.D. SMITH*
*PENN. & D.C. BARS ONLY

April 27, 1987

VIA HAND DELIVERY

John J. Hockberger, Jr.
United States Department of the Interior
Office of the Solicitor
Boise Field Office
Federal Building
Box 020-550 W. Fort Street
Boise, Idaho 83724

Re: Application of U.S. Bureau of Reclamation to Amend Water Permit No. 63-3618

Dear Jack:

Thank you for your correspondence of April 24, 1987. I regret the decision of the Bureau of Reclamation to decline the settlement proposal set forth in my correspondence of April 17, 1987.

During our telephone conversation of April 23, 1987, I did indicate that I had been contacted by Mr. David Tuthill, Jr., of the Idaho Department of Water Resources, concerning the conduct of a hearing with respect to this matter on May 15, 1987. I informed you during our conversation, as I had previously indicated to Mr. Tuthill, that while that date was available on my calendar, my consent to participation in a hearing on that date was contingent upon the completion of the depositions of employees of the Bureau of Reclamation prior to that date. I indicated to you during our conversation that I presently intend to take the deposition of Mr. Neil Stessman and Mr. Jack Hanson of the Central Snake Projects Office of the Bureau of Reclamation. Depending upon what those individuals testify to during the depositions, I may need to depose other employees of the Bureau. I requested you to contact Messrs. Stessman and Hanson to obtain their available dates so that we can schedule their depositions at the earliest possible opportunity.

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APR 29 1987
Department of Water Resources
Western Regional Office

Thank you for your anticipated cooperation in this regard.

Very truly yours,

ELAM, BURKE AND BOYD

Scott L. Campbell

SLC:ls
cc: Board of Directors,
Pioneer Irrigation District
Board of Directors,
Settler's Irrigation District
Mr. David Tuthill, Jr.
Ms. Vicki Keen
Ms. Hazel Robinson

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MAR 10 1988

B-93
WPRS-PN Reg.
12/79

Water and Power Resources Service
Pacific Northwest Regional Office
Boise, Idaho

3-12-87

To: Dave Tuthill

From: Ed Thomas

Note suggested addition.

3/13/87

Dave - called Statesman legal Dept.
Does with change for advertising.

Judy

3/13/87

SPECIAL NOTE: _____

Application No. Amend/ 63-3618

PROTEST INFORMATION SHEET

Protestant - Name(s)

Scott L. Campbell, Attorney for Settlers Irrigation Dist. &
Pioneer Irrigation Dist.

Address ELAM, BURKE and BOYD, First Interstate Bldg., 702 West Idaho
P O Box 1559 Boise, ID 83701

Attorney - Name & Address _____

Date Filed 4/6/87 Protest Date 4/6/87

Issues _____

Applicant - Attorney - Name & Address _____

Dates: _____

Acknowledgement letters: _____

Hearing Notice: _____

Hearing Date: _____

Other: _____

FILMED
MAR 10 1988

Protest Information submitted in Computer (following hearing): _____

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region

Cecil D. Andrus
Governor

2735 Airport Way
Boise, Idaho 83705
(208) 334-2190

April 7, 1987

U.S. Dept. of Interior
Bureau of Reclamation
Attn: 424 Box 043 83623
550 W. Fort St.
Boise, ID 83724

Gentlemen:

Enclosed is a copy of a protest(s) filed against the issuance of a permit pursuant to your Application for Amendment No. 63-3618. The Department suggests you contact the protestant(s) directly in an effort to resolve the protest(s) and to attempt to resolve the protest(s).

If this office has not been advised within twenty (20) days that the protest(s) has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

If this office can be of further assistance, please contact us.

Yours truly,

Jan Shute for

DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

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MAR 10 1988

DRT:jp

Enclosure

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region

Cecil D. Andrus
Governor

2735 Airport Way
Boise, Idaho 83705
(208) 334-2190

April 7, 1987

Scott L. Campbell
ELAM, BURKE and BOYD
Attorneys and Counselors at Law
First Interstate Bldg.
P O Box 1559
Boise, ID 83701

Re: Application for Amendment No. 63-3618 In the Name of United States Bureau of Reclamation

Dear Mr. Campbell:

This office acknowledges receipt of your protest on behalf of Settlers Irrigation District and Pioneer Irrigation District to the issuance of a permit pursuant to the above-referenced amendment for application. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

If this office can be of further assistance, please contact us.

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MAR 10 1988

Yours truly,

DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

DRT:jp

ELAM, BURKE AND BOYD
ATTORNEYS AND COUNSELORS AT LAW

FIRST INTERSTATE BUILDING
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TELEPHONE 208-343-5454
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ROBERT M. TYLER, JR.
JAMES D. LaRUE
RANDALL A. PETERMAN
WILLIAM J. RUSSELL
KAYE L. O'RIORDAN
RYAN P. ARMBRUSTER
DAVID E. COMSTOCK

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TODD J. WILCOX
PETER C. K. MARSHALL
KENNETH M. SEBBY
TRUDY HANSON FOUSER
D. ALAN KOFOED
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BRENDA G. MEIER
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WENDY E.D. SMITH*
*PENN. & D.C. BARS ONLY

April 6, 1987

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APR 09 1987
Department of Water Resources

RECEIVED
APR 8 1987
Hand-Delivered
Department of Water Resources
Western Regional Office

VIA HAND DELIVERY

David R. Tuthill, Jr., P.E.
Western Region Manager
Department of Water Resources
State of Idaho
2735 Airport Way
Boise, ID 83705

Re: Application for Amendment of Water Permit No. 63-3618
In the Name of the United States Bureau of Reclamation

Dear David:

I have enclosed for filing with the Department an original and one copy of a Protest against the Application for Amendment of Water Permit No. 63-3618.

I have also enclosed a copy of a cover letter which was sent to Mr. Donald Smitchger, President of Settlers Irrigation District, and received by the District office on April 3, 1987. As you can see, this correspondence indicates that the written protest against the application must be received by your office by April 20, 1987. Upon a review of one of the enclosures with this correspondence, Mr. Smitchger discovered that the Notice of Application for Amendment required that protests be filed on or before April 6, 1987. Mr. Smitchger confirmed this latter date with Mr. Ervin Ballou during a telephone conversation on April 3, 1987.

Because of the limitations placed upon my ability to gather information relative to this protest caused by the miscommunication with respect to the protest deadline, I respectfully reserve the right to amend the enclosed Protest and add additional protestants at a later time. The severe time limitations have prevented me from contacting other water user organizations which

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MAR 10 1988

may wish to formally protest this Application for Amendment on substantially similar grounds as the existing protestants.

I appreciate your understanding in this regard.

Very truly yours,

ELAM, BURKE AND BOYD

Scott L. Campbell

SLC:ls
Enclosures

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MAR 10 1988

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APR 6 1987
Department of Water Resources
Western Regional Office
RECEIVED
APR 09 1987
Department of Water Resources

Peter J. Boyd
Scott L. Campbell
ELAM, BURKE AND BOYD
1010 First Interstate Building
P.O. Box 1559
Boise, Idaho 83701
(208) 343-5454

Attorneys for Protestants

BEFORE THE DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

IN THE MATTER OF THE APPLICATION FOR AMENDMENT OF PERMIT NO. 63-3618, IN THE NAME OF THE UNITED STATES BUREAU OF RECLAMATION	)	PROTEST

COMES NOW, Settlers Irrigation District and Pioneer Irrigation District, by and through their counsel, Scott L. Campbell, and hereby protest the Application for Amendment of Permit No. 63-3618, heretofore filed by the United States Bureau of Reclamation to change the nature of use of 44,700 acre-feet of stored water in Lucky Peak Reservoir.

Each of the protestants herein possess water storage rights in Lucky Peak Reservoir, pursuant to contracts with the United States Department of the Interior, Bureau of Reclamation.

Settlers Irrigation District, Pioneer Irrigation District, and Farmers Union Ditch Company possess natural flow-of-the-river water rights in the Boise River, pursuant to Farmers Co-op v. Riverside Irrigation District, 14 Idaho 450 (1908), which decision is commonly referred to as the Stewart Decree.

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MAR 10 1988

Protestants believe that the terms of the proposed Amendment of Permit No. 63-3618 may adversely affect the water storage rights of the protestants in Lucky Peak Reservoir.

Protestants further believe that the reasons for the proposed change, as stated in the Application for Amendment of Permit No. 63-3618, which is to "provide a water supply to the users of the Boise Board of Control to offset shortages due to evacuation of Lucky Peak Reservoir during power plant construction," is an improper basis for granting such a change in the nature of use of the water.

Protestants also believe that the modification of the nature of use of 44,700 acre-feet of stored water from streamflow maintenance purposes to irrigation purposes in order to supply water to the users of the Boise Board of Control and not to the protestants or other similarly situated water users constitutes an unjust, preferential treatment of one group of water users to the detriment of the protestants and other similarly situated users of Boise River water.

In this regard, protestants assert that if the 44,700 acre-feet of streamflow maintenance water is changed to irrigation use for the Boise Project Board of Control, a like amount should be changed to irrigation use and be made available to protestants and other similarly situated water users who may desire to contract with the United States Bureau of Reclamation for such additional water during the 1987 irrigation season. This is

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MAR 10 1988

particularly significant in view of the below normal precipitation accumulations in the Boise River drainage during the period of October 1986 through April 1987.

Protestants respectfully request that a hearing be scheduled before the Department of Water Resources to consider these and other objections to the Application for Amendment of Permit No. 63-3618.

DATED This 6th day of April, 1987.

ELAM, BURKE & BOYD

By Scott L. Campbell
Scott L. Campbell, Of the Firm
Attorneys for Protesters

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this 6th day of April, 1987, I caused a true and correct copy of the above and foregoing instrument to be mailed, postage prepaid, to:

John W. Keys, III
Regional Director
Pacific Northwest Region
Bureau of Reclamation
Box 043, 550 W. Fort St.
Boise, ID 83724

Scott L. Campbell

MICROFILMED
MAR 10 1988

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region

Cecil D. Andrus
Governor

2735 Airport Way
Boise, Idaho 83705
(208) 334-2190

March 31, 1987

Donald Smitchger, Pres.
Settlers Irrigation District
P. O. Box 7571
Boise, ID 83706

Re: Application for Amendment No. 63-3618 in the Name of United States Bureau of Reclamation

Dear Mr. Smitchger:

Enclosed is a copy(s) of the above referenced application(s) for amendment which may be of interest to your agency. Please review the application(s) and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter, however, if your agency desires to file a formal protest against the approval of this application(s), your written protest must be received in this office by April 20, 1987 .

If you have any questions regarding the application, please contact this office.

Sincerely,

for DAVID R. TUTHILL, JR., P. E.
Western Region Manager

DRT:jp

Enclosure (s)

MICROFILMED
MAR 10 1988

RECEIVED
APR 6 1987
Department of Water Resources
Western Regional Office

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region

Cecil D. Andrus
Governor

2735 Airport Way
Boise, Idaho 83705
(208) 334-2190

March 31, 1987

Donald Sayre, Chrm.
Pioneer Irrigation District 459-3617
P. O. Box 426
Caldwell, ID 83606

Re: Application for Amendment No. 63-3618 in the Name of United States Bureau of Reclamation

Dear Mr. Sayre:

Enclosed is a copy(s) of the above referenced application(s) for amendment which may be of interest to your agency. Please review the application(s) and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter, however, if your agency desires to file a formal protest against the approval of this application(s), your written protest must be received in this office by April 20, 1987.

If you have any questions regarding the application, please contact this office.

Sincerely,

Edwin E Ballou

for DAVID R. TUTHILL, JR., P. E.
Western Region Manager

DRT:jp

Enclosure (s)

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MAR 10 1988

phoned Pioneer on 4/3/87 to tell them the last date for protest was 4/6/87 rather than 4/20/87 as stated in this letter.
4/3/87

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region

Cecil D. Andrus
Governor

2735 Airport Way
Boise, Idaho 83705
(208) 334-2190

March 31, 1987

Donald Smitchger, Pres.
Settlers Irrigation District
P. O. Box 7571
Boise, ID 83706

Re: Application for Amendment No. 63-3618 in the Name of United States Bureau of Reclamation

Dear Mr. Smitchger:

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This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter, however, if your agency desires to file a formal protest against the approval of this application(s), your written protest must be received in this office by April 20, 1987.

If you have any questions regarding the application, please contact this office.

Sincerely,

Erwin E Ballou

for DAVID R. TUTHILL, JR., P. E.
Western Region Manager

DRT:jp

Enclosure (s)

MICROFILMED
MAR 10 1988

Mr. Smitchger phoned to inquire as to why this letter said the last date for protest was 4/20/87 + the ad said 4/6/87. I told him after talking w/Judy that the letter was incorrect + [illegible] 4/13/87

DRAFT

United States Department of the Interior

BUREAU OF RECLAMATION
PACIFIC NORTHWEST REGION
FEDERAL BUILDING & U.S. COURTHOUSE
BOX 043 - 550 WEST FORT STREET
BOISE, IDAHO 83724

IN REPLY
REFER TO: 420

MAR 12 1987

RECEIVED
MAR 16 1987
Department of Water Resources
Western Regional Office

Mr. Kenneth Dunn, Director
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

Dear Mr. Dunn:

Re: Permit No. 63-3618/R-1183, Application for Amendment of Water Right Permit, Boise Project, Idaho

Enclosed is an application for amendment of the Lucky Peak Reservoir storage permit to authorize use of up to 44,700 acre-feet of streamflow maintenance water for irrigation in 1987. The streamflow maintenance waters would be replaced in 1988 to 1990, if necessary, from Boise Project irrigation rights under contract to the Boise Project Board of Control.

Dept 3/16/87

Please sign and return the enclosed voucher for payment of the application fee.

This application is pursuant to the agreement dated June 26, 1986 between Neil Stessman, Project Superintendent, United States Bureau of Reclamation (USBR) and Lou L. Murgoitio, Vice Chairman of the Boise Project Board of Control. (Copy attached).

The agreement provides for the release of 1986 carryover storage water from the space of the five districts comprising the Boise Project Board of Control (BPBOC) in order to accommodate the construction of the Lucky Peak Hydropower Plant. The BPBOC has agreed that refill of the vacated space would have the last right of refill in the 1987 water year. This provision assures that all others who are entitled to storage water from the three reservoir systems could not be harmed by the release of 1986 carryover water.

The agreement also provides that the BPBOC will be able to borrow water from some uncontracted reservoir space (recently committed to streamflow maintenance purposes) in 1987 if an irrigation water shortage occurs as a result of the release of carryover water. The mentioned uncontracted space of 102,000 acre-feet is managed by the Bureau of Reclamation in order to sustain

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MAR 10 1988

a Boise River flow of 80 ft^3/s below Lucky Peak Dam from October 15 to April 15 each year. In order not to restrict the Bureau's ability to maintain the 80 ft^3/s flow between October 15, 1987, and April 15, 1988, the amount which can be borrowed was limited by the agreement to 44,700 acre-feet. Also, the 50,000 acre-feet of storage space committed to the Idaho Department of Fish and Game for Streamflow maintenance which typically provides a wintertime Boise River flow of 70 ft^3/s will not be affected by this agreement.

The BPBOC agreed to replace in the system any borrowed water prior to its being needed for streamflow maintenance purposes. In addition, they agreed as a quid pro quo, to contribute for streamflow maintenance purposes up to 12,900 acre-feet of the BPBOC's future Boise Project storage entitlement to guarantee that the 80 ft^3/s flow could be maintained until April 15, 1990. This will insure that the 80 ft^3/s streamflow can be maintained even in an extended drought much more severe than any on record.

Sincerely yours,

John W. Keys, III

Regional Director

Enclosure

MICROFILMED

MAR 10 1988

NOTICE OF APPLICATION FOR AMENDMENT

Notice is hereby given that Permit No. 63-3618 in the name of the United States Bureau of Reclamation was filed on 4/12/1963 for the diversion of 307,000 acre feet from the Boise River with a point of diversion at Lucky Peak Dam within the SE1/4 NE1/4, Sec. 11, T. 2N., R. 3E., to be used for storage for irrigation from 1/1 to 12/31 and irrigation from storage from 4/15 to 10/15 within the irrigation system of the Boise Valley.

On 2/14/1985 the permit was amended to change the nature of use to describe 111,950 acre feet storage for irrigation from 1/1 to 12/31, 111,950 acre feet irrigation from storage from 4/15 to 10/15, 152,300 acre feet storage for streamflow maintenance from 1/1 to 12/31, 152,300 acre feet streamflow maintenance from storage from 1/1 to 12/31, and 28,800 acre feet storage for recreation from 1/1 to 12/31, for a total of 293,050 acre feet.

The permit holder now proposes to amend the permit by allowing (1) use of up to 44,700 acre feet of streamflow maintenance water for irrigation of Boise Project Board of Control (BPBOC) lands in the 1987 season; and (2) use of up to 57,600 acre feet of BPBOC irrigation storage to guarantee streamflow maintenance capacity through April 15, 1990. to the extent the system does not refill by that time.

Information submitted with the application for amendment describes that as consideration for making water from the streamflow maintenance account available to the BPBOC, the BPBOC will transfer to the Bureau of Reclamation's streamflow maintenance account a volume of water in addition to the quantity borrowed in the event and to the extent that there exists a shortage in the Bureau of Reclamation's account necessary to permit releases of 80 cubic feet per second from October 15, 1989 to April 15, 1990, to a maximum of 12,900 acre feet in excess of the amount borrowed.

Any protest against the approval of the proposed amendment must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83709 on or before April 6, 1987. Copies of the Application for Amendment and associated explanatory documents are available upon request.

A. Kenneth Dunn
Director

Published in the Idaho Statesman on 3/19 & 3/26/87.

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MAR 10 1988

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
Western Region

Statehouse
Boise, Idaho 83720
(208) 334-2190

MARCH 11, 1987

The Idaho Statesman
Box 40
Boise, ID 83707

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before APRIL 6, 1987.

Yours truly,

JUDY PENSE
Secretary

Encl.

MICROFILMED
MAR 10 1988

[redacted]R-DEPARTMENT MEMO — 1

FROM Dave Tuthill

DATE 3/10/87

TO Ed Thomas 550 W. Fort Rm 533½ First Desk on Rt

SUBJECT Attached

334-2190

Plz Review & telephone any concerns to the office (lv message) on Wed. I will be in briefly Thurs morn to review messages & I will return your call if necessary.

Thanks, Dave

SIGNATURE

INTER-DEPARTMENT MEMO — 1

FROM Dave Tuthill

DATE 3/10/87

TO Neil Stessman 214 Broadway

SUBJECT

Per our discussion, if you have questions or proposed changes plz leave message at 334-2190.

MICROFILMED
MAR 10 1988

Dave

SIGNATURE

NOTICE OF APPLICATION FOR AMENDMENT

Notice is hereby given that Permit No. 63-3618 in the name of the United States Bureau of Reclamation was filed on 4/12/1963 for the diversion of 307,000 acre feet from the Boise River with a point of diversion at Lucky Peak Dam within the SE1/4 NE1/4, Sec. 11, T. 2N., R. 3E., to be used for storage for irrigation from 1/1 to 12/31 and irrigation from storage from 4/15 to 10/15 within the irrigation system of the Boise Valley.

On 2/14/1985 the permit was amended to change the nature of use to describe 111,950 acre feet storage for irrigation from 1/1 to 12/31, 111,950 acre feet irrigation from storage from 4/15 to 10/15, 152,300 acre feet storage for streamflow maintenance from 1/1 to 12/31, 152,300 acre feet streamflow maintenance from storage from 1/1 to 12/31, and 28,800 acre feet storage for recreation from 1/1 to 12/31, for a total of 293,050 acre feet.

The permit holder now proposes to amend the permit by allowing (1) use of up to 44,700 acre feet of streamflow maintenance water for irrigation of Boise Project Board of Control (BPBOC) lands in the 1987 season; and (2) use of up to 57,600 acre feet of BPBOC irrigation storage to guarantee streamflow maintenance capacity through April 15, 1990.

Information submitted with the application for amendment describes that as consideration for making water from the streamflow maintenance account available to the BPBOC, the BPBOC will transfer to the Bureau of Reclamation's streamflow maintenance account a volume of water in addition to the quantity borrowed in the event and to the extent that there exists a shortage in the Bureau of Reclamation's account necessary to permit releases of 80 cubic feet per second from October 15, 1989 to April 15, 1990, to a maximum of 12,900 acre feet in excess of the amount borrowed.

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A. Kenneth Dunn
Director

Published in the Idaho Statesman on 3/19 & 3/26/87.

MICROFILMED
MAR 1 0 1988

February 17, 1987

Scott L. Campbell
Elam, Burke and Boyd
702 West Idaho
P. O. Box 1559
Boise, ID 83701

RE: Permit 63-3618/R-1183

Dear Mr. Campbell:

Thank you for your letter of January 21, 1987, concerning the Bureau of Reclamation to offer to loan to the Boise Project Board of Control stored water designated for stream maintenance flows without an additional amendment to the authorizing permit to authorize a change in nature of use.

I discussed this matter with representatives of the Bureau of Reclamation. If in their opinion it becomes necessary to implement an exchange between irrigation and stream maintenance flow storage water, they will file an application to change the nature of use of the Lucky Peak water right permit. Their decision to request a change will depend upon the amount of storage forcasted to accrue in Lucky Peak. If an application to change the nature of use is filed, notice will be given as provided by Section 42-211, Idaho Code. Because of your expressed interest, I will see that you are provided a copy of the application.

Sincerely,

MICROFILMED
MAR 10 1988

A. KENNETH DUNN
Director

AKD:alw

ELAM, BURKE AND BOYD
ATTORNEYS AND COUNSELORS AT LAW

FIRST INTERSTATE BUILDING
702 WEST IDAHO
POST OFFICE BOX 1559
BOISE, IDAHO 83701
TELEPHONE 208-343-5454
TELECOPIER 208-343-5454

LAUREL E. ELAM (1888-1974)
CARL A. BURKE (1898-1961)
CARL P. BURKE
PETER J. BOYD
J. RAY DURTSCHI
M. ALLYN DINGEL, JR.
JACK S. GJORDING
JOHN MAGEL
DAVID B. LINCOLN
RICHARD C. MELLON, JR.
ROBERT M. TYLER, JR.
JAMES D. LaRUE
RANDALL A. PETERMAN
WILLIAM J. RUSSELL
KAYE L. O'RIORDAN
RYAN P. ARMBRUSTER
DAVID E. COMSTOCK
MELVILLE W. FISHER II
WILLIAM G. DRYDEN
TODD J. WILCOX
PETER C. K. MARSHALL
KENNETH M. SEBBY
TRUDY HANSON FOUSER
D. ALAN KOFOED
SCOTT L. CAMPBELL
BOBBI KILLIAN DOMINICK
W. DALLAS BURKHALTER
ALAN CONILOGUE
ELAINE D. HANSON
JEFFERY J. VENTRELLA
BRENDA G. MEIER
JOHN J. JANIS
WENDY E.D. SMITH*
*PENN. & D.C. BARS ONLY

January 21, 1987

RECEIVED
JAN 22 1987
Department of Water Resources

Mr. A. Kenneth Dunn, Director
Department of Water Resources
State of Idaho
450 West State Street
Boise, ID 83702

Re: Water Permit No. 63-3618/R-1183

Dear Ken:

I am writing concerning Water Permit No. 63-3618/R-1183, as amended by the Idaho Department of Water Resources on February 14, 1985. It is my understanding that this amendment of the prior permit converted approximately 152,300 acre feet of storage water in Lucky Peak Reservoir from noncontracted irrigation use to stream-flow maintenance use.

This law firm represents the Pioneer Irrigation District in the proceeding before the Department of Water Resources involving the Petition to Cancel Water Permit No. 63-9019. A briefing schedule has been established with respect to that proceeding, and in the course of my examination of the exhibits which have been made a part of the hearing record with respect to those proceedings, I discovered two documents which I believe call into question the proper utilization of the waters represented by Water Permit No. 63-3618/R-1183 by the U.S. Bureau of Reclamation.

I refer you to Exhibits 49 and 50 of the hearing record involving Petition to Cancel Water Permit No. 63-9019. I have enclosed copies of these exhibits for your convenience.

Exhibit 49 is a letter, dated May 8, 1986, from Mr. Carl Padour, Project Manager of the Boise Project Board of Control, to Mr. Neil Stessman, Superintendent, Central Snake Projects, U.S. Bureau of Reclamation. The letter deals with the requested early drawdown of Lucky Peak Reservoir, commencing on August 4, 1986, and concluding on September 1, 1986, to bring the reservoir level

MICROFILMED
MAR 10 1988

to surface elevation 2960.00. Mr. Padour requests that the reservoir level be retained at that surface elevation through January 10, 1987. This drawdown of the reservoir pool was requested to accommodate the construction needs of the Lucky Peak hydroelectric project.

Exhibit 50 constitutes Mr. Neil Stessman's response, dated June 26, 1986, to Mr. Padour's prior correspondence of May 8, 1986. In Mr. Stessman's correspondence, he sets forth certain conditions and requirements which he required the Boise Project Board of Control irrigation districts to consent to before the August 4, 1986, drawdown of the Lucky Peak Reservoir pool.

Among other things, Mr. Stessman sets forth specific criteria for the drawdown to ensure that the contract storage users who are not participating in the Lucky Peak hydroelectric project will not be injured by the early drawdown of the reservoir. In essence, he has indicated that the excess discharge of waters, over the minimum flow of 150 cfs from Lucky Peak Reservoir will be charged against the irrigation storage rights of the Boise Project Board of Control districts for the 1987 irrigation season.

While I have some question with respect to the authority of the U.S. Bureau of Reclamation to permit the wasting of irrigation storage water downstream for nonirrigation purposes in order to accommodate the construction needs of the Lucky Peak hydroelectric project and debit that discharge from the 1987 storage accounts, my real concern involves the following statement contained in Mr. Stessman's correspondence:

> In the event space held by the districts involved in the powerplant construction (herein B.O.C.) does not fill in 1987 as a result of the events described above, the Bureau of Reclamation on the B.O.C.'s request will make a portion of its streamflow maintenance water available on the following conditions: . . .

(See Exhibit 50.) The second page of Mr. Stessman's correspondence (Exhibit 50) contains the conditions which are referred to in the above-quoted passage.

My concern involving this statement focuses upon the use of water designated as stream-flow maintenance water, presumably under the authority of Water Permit No. 63-3618/R-1183, by the Bureau of Reclamation for the Boise Project Board of Control districts for irrigation purposes. The Bureau of Reclamation took affirmative action to convert a portion of the irrigation storage water right of the permit to stream-flow maintenance

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MAR 10 1988

usage in its Application for Amendment of Permit submitted to the Department on March 9, 1984, by John W. Keys, III. This Application for Amendment of Permit was approved on February 14, 1985, by the Department. It appears from Mr. Stessman's letter, however, that the Bureau of Reclamation intends to utilize a portion of this stream-flow maintenance water for irrigation purposes if the Boise Project Board of Control irrigation districts require additional water during the 1987 irrigation season because of the evacuation of the Lucky Peak Reservoir to accommodate the construction needs of the Lucky Peak hydroelectric project.

It appears that Idaho Code section 42-201 would prohibit such action by the Bureau of Reclamation. It reads as follows:

> Water rights acquired under chapter--Illegal application of water.--(1) All rights to divert and use the waters of this state for beneficial purposes shall hereafter be acquired and confirmed under the provisions of this chapter and not otherwise. And after the passage of this title all the waters of this state shall be controlled and administered in the manner herein provided. Such appropriation shall be perfected only by means of the application, permit and license procedure as provided in this title; provided, however, that in the event an appropriation has been commenced by diversion and application to beneficial use prior to the effective date of this act it may be perfected under such method of appropriation.
>
> (2) No person shall use the public waters of the state of Idaho except in accordance with the laws of the state of Idaho. No person shall divert any water from a natural watercourse or apply water to land without having obtained a valid water right to do so, or apply it to purposes for which no valid water right exists.

It would appear that the utilization of water under a stream-flow maintenance permit for irrigation purposes violates the statutory restriction of this provision, mandating that "no person shall divert any water from a natural watercourse or apply water to land without having obtained a valid water right to do so, or apply it to purposes for which no valid water right exists." (Idaho Code section 42-201.)

If the Bureau of Reclamation desires to change the nature of the intended use of the stream-flow maintenance water granted by

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MAR 10 1988

Permit No. 63-3618/R-1183, it appears that an additional amendment of the permit would be required by Idaho Code section 42-201.

I would like to have your reaction to the concerns expressed above. Please inform me if you agree or disagree with any of the points I have presented in this correspondence and explain what action, if any, the Department of Water Resources intends to take with respect to these matters.

Thank you for your cooperation.

Very truly yours,

ELAM, BURKE AND BOYD

Scott L. Campbell

SLC:ls
Enclosures
cc: Board of Directors,
Pioneer Irrigation District
Board of Directors,
Settler's Irrigation District
Neil Stessman
John W. Keys, III
Raymond Givens, Esq.
William Ringert, Esq.
Randall Fredericks, Esq.
Don Olowinski, Esq.
Larry Sullivan, Esq.
David Tuthill, Jr.
Lee Sisco
Jerry Conley

MICROFILMED
MAR 10 1988

RNON HAUMANN
RMAN OF THE BOARD
U MURGOITIO
E CHAIRMAN OF THE BOARD
RL PADOUR
JECT MANAGER
NNETH HENLEY
ISTANT PROJECT MANAGER
RLYN F. POPE
RETARY-TREASURER
EBE HILDEBRANDT
ISTANT SECRETARY-TREASURER

BOISE PROJECT BOARD OF CONTROL

(FORMERLY BOISE U. S. RECLAMATION PROJECT)

214 BROADWAY
BOISE, IDAHO 83702

May 8, 1986

OPERATING AGENCY FOR 167,000 ACRES FOR THE FOLLOWING IRRIGATION DISTRICTS

NAMPA-MERIDIAN DISTRICT
BOISE KUNA DISTRICT
WILDER DISTRICT
NEW YORK DISTRICT
BIG BEND DISTRICT

RECEIVED
JAN 22 1987
Department of Water Resources

Mr. Neil Stessman, Superintendent
Central Snake Projects
U.S. Bureau of Reclamation
214 Broadway Avenue
Boise, Idaho 83702

Dear Neil:

This letter is to formally request an early drawdown of Lucky Peak Reservoir for the 1986 season. The Boise Project Board of Control on behalf of the Boise-Kuna, Nampa and Meridian, Wilder and Big Bend Irrigation Districts request the drawdown begin no later than August 4 and must have a water surface elevation of 2960.00 on September 1st. The September 1 date is critical as the 4040-CC-102-Lucky Peak Power Contract for the existing outlet reliner cites availability to the contractor from that date through January 10, 1987. It is the intent that all reservoir space will be available for flood control on that date. We would assume that the District's position and liability would parallel that of the previous years.

Sincerely,

Carl Padour

Carl Padour
Project Manager
Boise Project Board of Control

CP:ph

cc: Dave Reese - Corps of Engineers
Royse Van Curen - Lucky Peak Power Project

49
MICROFILMED
MAR 10 1988

United States Department of the Interior
BUREAU OF RECLAMATION
CENTRAL SNAKE PROJECTS OFFICE
214 BROADWAY AVENUE
BOISE, IDAHO 83702

RECEIVED
JAN 22 1987
Department of Water Resources

June 26, 1986

IN REPLY
REFER TO: 400
651.

Mr. Carl Padour, Manager
Boise Project Board of Control
214 Broadway Avenue
Boise, Idaho 83702

Subject: 1986-87 Lucky Peak Drawdown

Dear Mr. Padour:

In order to accommodate the Lucky Peak Powerplant construction with the requested elevations outlined by your letter of May 8, 1986, for the period August 4, 1986, through January 10, 1987, adjustments in the total Boise System operation must be made. Many of the ramifications of this schedule were discussed at the May 28, 1986, meeting in your office. Without going into all of the operational changes that will be required to meet the requested elevations for Lucky Peak, it must be understood that any water released above the irrigation requirements because of the requested elevations, before the end of the 1986 irrigation season will be charged to the system space held by the districts involved in the powerplant construction. In addition, after the 1986 irrigation season any water released above the 150 ft ^{3}/s minimum flow from Lucky Peak, which cannot be stored because of the requested elevations and the resulting impact on flood control needs, will be charged to the system space held by the districts involved in the powerplant construction. Space held by these districts equivalent to these amounts will have the last refill priority to all other storage in the system, including the non-contracted or streamflow maintenance space in Lucky Peak. This will prevent injury to other storage rights and users in the system not involved in the powerplant project. We will notify you of the amount that is being charged to the districts involved in the construction, so that you may make any change in the construction schedule of elevations needed at Lucky Peak.

In the event space held by the districts involved in the powerplant construction (herein B.O.C.) does not fill in 1987 as a result of the events described above, the Bureau of Reclamation on the B.O.C.'s request will make a portion of its streamflow maintenance water available on the following conditions:

MICROFILMED
MAR 10 1988

(1) In the event during the 1986-87 storage season the B.O.C.'s space fails to fill by more than 10,000 acre-feet, the Bureau, up to a maximum of 44,700 acre-feet, will make its streamflow maintenance water available during the 1987 irrigation season to cover 50 percent of such shortage, provided however, nc streamflow maintenance water will be made available to provide irrigation carry over for the 1988 irrigation season.

(2) The B.O.C. agrees to subordinate its water rights to the extent necessary to repay the Bureau's streamflow maintenance space as follows:

(a) During the 1987-88 storage season, the first waters accruing to the B.O.C.'s space will be transferred to the Bureau's streamflow maintenance space in Lucky Peak Reservoir so that 28,800 acre-feet will be available for release from October 15, 1988, to April 15, 1989. A similar transfer will be made during the 1988-89 storage season provided that the transfer during the 1988-89 storage season shall be sufficient to repay the full amount of water borrowed in 1987.

(b) The maximum repayment required from the B.O.C. will be the amount borrowed from the streamflow maintenance space in the 1987 irrigation season, provided however:

(i) As consideration for making water from the streamflow maintenance account available to the B.O.C. as provided above, the B.O.C. will transfer to the Bureau of Reclamation's streamflow maintenance account a volume of water in addition to the quantity borrowed in the event and to the extent that there exists a shortage in the Bureau of Reclamation's account necessary to permit releases of 80 ft^3/s (28,800 acre-feet) from October 15, 1989, to April 15, 1990. Assuming the streamflow maintenance account fills in 1986, there is now a sufficient amount of water in the account to make diversions during the release periods from 1986 to 1989, with only 15,900 acre-feet available for the October 15, 1989, - April 15, 1990, release period. The maximum transfer prior to and during the above release period will not exceed 12,900 acre-feet under this sub-paragraph.

(ii) In the event the system fills at any time from the date hereof to April 15, 1990, these conditions will terminate and no further repayment of space will be required.

MICROFILMED
MAR 10 1988

If this understanding is acceptable to the Board of Control, I would appreciate your indicating such by having the Chairman of the Boise Project Board of Control sign the concurrence line on the bottom of this letter and return it to me as soon as possible.

Sincerely yours,

Neil Steesman

Project Superintendent

CONCUR

Lou L Mugaas

Chairman, Boise Project Board of Control

July 25, 1986

Date

MICROFILMED
MAR 10 1988

United States Department of the Interior

BUREAU OF RECLAMATION
PACIFIC NORTHWEST REGION
FEDERAL BUILDING & U.S. COURTHOUSE
BOX 043 - 550 WEST FORT STREET
BOISE, IDAHO 83724

IN REPLY
REFER TO: PN 420
870.-

SEP 19 1986

RECEIVED
SEP 22 1986
Department of Water Resources

Mr. Kenneth Dunn, Director
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

Dear Mr. Dunn:

Re: Permit No. 63-3618 (R-1183) Lucky Peak Reservoir

Enclosed is a Proof of Beneficial Use form for use of water stored in Lucky Peak Reservoir under permit No. 63-3618. Also enclosed is a voucher for $600.00 for the license examination fee. If you will sign the voucher and return it a government check will be issued.

This will supercede the proof of beneficial use post card forwarded with our August 18, 1986 letter.

Sincerely yours,

Harold M. Bowers

Acting Regional Director

Enclosures

cc: Project Superintendent, CSPO, Boise, Idaho (w/enc)
RO Attention: 704 (w/enc)

MICROFILMED
JAN 29 1987

Form 217
03/86

RECEIVED
SEP 22 1986
Department of Water Resources

For Office Use Only
Fee Received $600.00
Date 12-29-86
Receipt # 40915
Receipt by
Reviewed by
Sent to region 1-15-87

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

Permit No. 63-3618/R-1183

Name(s) of Permit Holder: United States of America Acting through the Regional Director, Pacific Northwest Region, Bureau of Reclamation ✓

Post Office Address: Box 043-550 West Fort Street, Boise, Idaho 83724 ✓

Telephone No. 208-334-1165

Source of Water: Boise River ✓

Extent of Use:
Storage for Irrigation----------111,950 acre ft.
Irrigation for Storage----------111,950 acre ft.
Storage for Streamflow maintenance----------152,300 acre ft.
Streamflow Maintenance from storage----------152,300 acre ft.
Storage for recreation---------- 45,800 acre ft.*
*Reservoir pool - 28,800 acre ft.
Bank Storage 17,000 acre ft.
Total 45,800 acre ft.

Total rate and/or volume for which proof is submitted _____ cfs 310,050 acre-feet

Show the date water was first diverted and beneficially used under this permit: 1-1-1055

Measuring Device: Required? __ Yes X No
Installed? __ Yes X No

Fee enclosed $ 600.00 ✓
(See License Examination Fee Schedule)

Flow Measurement Port: Required? __ Yes X No
Installed? __ Yes X No

MICROFILMED
JAN 29 1987

Person to contact to accompany the Department representative during the field examination:

Ed Thomas - Code 424 (208) 334-1165
(Name) (Telephone Number)

United States Bureau of Reclamation, Box 043-550 West Fort Street
Boise, Idaho 83724
(Address)

The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

9/19/86 Harold C. McBride ACTING Regional Director
Date Signature of Permit Holder (and title, if appropriate)

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

- -

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL
AUGUST 31, 1986

138253

U.S. DEPT. OF INTERIOR
BUREAU OF RECLAMATION
ATTN: 424 BOX 043
550 W. FORT ST.
BOISE, ID 83724

PROOF DUE NOTICE

RE: PERMIT NO. 63-3618

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF THE ABOVE REFERENCED WATER PERMIT WAS THAT PROOF OF THE EXTENT OF YOUR BENEFICIAL USE MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE NOVEMBER 1, 1986. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST.) ENCLOSED IS A FORM WHICH WHEN ACCOMPANIED BY THE LICENSE EXAMINATION FEE OR A COMPLETED FIELD EXAMINATION REPORT PREPARED BY A CERTIFIED WATER RIGHT EXAMINER MAY BE USED TO SUBMIT THE REQUIRED PROOF.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU OR A PREVIOUS OWNER OF THIS PERMIT HAVE NOT RECEIVED A PRIOR EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME IF THE DELAY IS FOR REASONABLE CAUSE AS PROVIDED IN SECTION 42-204, IDAHO CODE. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION WHICH MIGHT BRING TITLE TO THE WATER IN QUESTION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. AN EXTENSION OF TIME REQUEST FORM IS ENCLOSED FOR YOUR CONVENIENCE.

EITHER AN ACCEPTABLE PROOF OF BENEFICIAL USE SUBMITTAL OR AN ACCEPTABLE REQUEST FOR AN EXTENSION OF TIME MUST BE RECEIVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE DESCRIBED PROOF DUE DATE. IF NEITHER IS RECEIVED, THE DEPARTMENT WILL SEND YOU A LAPSE NOTICE. WITHIN SIXTY (60) DAYS OF THE MAILING OF THE LAPSE NOTICE, THE PERMIT WILL NO LONGER BE OF ANY FORCE NOR EFFECT.

SINCERELY,

MICROFILMED
JAN 29 1987

RITA FLECK
SECRETARY/RECORDS MANAGER

ENCLOSURES

United States Department of the Interior

BUREAU OF RECLAMATION
PACIFIC NORTHWEST REGION
FEDERAL BUILDING & U.S. COURTHOUSE
BOX 043 - 550 WEST FORT STREET
BOISE, IDAHO 83724

IN REPLY
REFER TO: PN 420
870.-

AUG 18 1986

RECEIVED
AUG 19 1986
Department of Water Resources

Mr. Kenneth Dunn, Director
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

Dear Mr. Dunn:

Re: Permit No. 63-3618 (R-1183) Lucky Peak Reservoir

Enclosed is a signed post card indicating proof of beneficial use of water stored in Lucky Peak Reservoir under permit No. 63-3618.

Sincerely yours,

John W. Keys, III
ACTING
Regional Director

Enclosures

cc: Project Superintendent, CSPO, Boise, Idaho (w/enc)
RO Attention: 704 (w/enc)

MICROFILMED
JAN 23 1987

RECEIVED
MAY 3 1984
Clemons, Cosho & Humphrey, P.A.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

New York Irrigation District	)	Project No. 2832-003
Nampa - Meridian Irrigation District	)	
Boise - Kuna Irrigation District	)	
Wilder Irrigation District	)	
Big Bend Irrigation District	)	

RECEIVED
APR 27 1984
BOISE PROJECT BOARD OF CONTROL

ORDER APPROVING REVISED EXHIBIT DRAWINGS
AND AMENDING LICENSE

(Issued April 20, 1984)

The Boise Project Board of Control (Board),1/ has filed an application for amendment of its license for the Lucky Peak Power Plant Project No. 2832, located at the existing U. S. Army Corps of Engineers' Lucky Peak Dam in Ada County, Idaho.2/

The application includes revised Exhibits J, K and L drawings, which collectively portray a new diversion and outlet tunnel in lieu of a new power tunnel as licensed, and modification of the existing outlet tunnel to be utilized as both a power tunnel and an outlet tunnel. The Board stated that changes in the licensed project features were required in order to obtain the approval of the U. S. Army Corps of Engineers' (Corps) as stipulated in Article 37 of the license.

1/ Boise Project Board of Control was formed by five member districts, to wit: New York Irrigation District, Nampa - Meridian Irrigation District, Boise - Kuna Irrigation District, Wilder Irrigation District, and Big Bend Irrigation District These five member irrigation Districts are collectively the Licensee for the Lucky Peak Power Plant Project No. 2832 (Order issuing License, issued June 10, 1980), and are the applicant in this proceeding.

2/ Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation, under §375.308 of the Commission's regulations, 18 C.F.R. §375.308 (1983), FERC Statutes and Regulations ¶30,238. This order may be appealed to the Commission by any party within 30 days of its issuance pursuant to Rule 1902, 18 C.F.R. 385.1902, FERC Statutes and Regulations ¶29,052 47 Fed. Reg. 19014 (1982). Filing an appeal and final Commission action on that appeal are prerequisites for filing an application for rehearing as provided in Section 313(a) of the Act. Filing an appeal does not operate as a stay of the effective date of this order or any other date

NOT FILMED
MAR 10 1988

In lieu of constructing a separate power tunnel adjacent to the existing tunnel, the Board proposes to line the existing tunnel with a 1-inch-thick, 21-foot-diameter, steel liner and grout the space between the existing tunnel and new steel liner. The penstock would attach to the tunnel liner and consist of a 20-foot-diameter steel lined cast-in-place concrete pipe, manifold, three 10-foot-diameter pipes and one 4.5-foot-diameter pipe.

To provide reservoir releases during emergencies, the Board proposes a new intake structure, diversion and outlet tunnel, and outlet works to be constructed on the south abutment of the dam. The concrete and steel lined tunnel will be approximately 1650 feet long and have an inside diameter of 12 feet. The outlet works would consist of a stilling basin and chute which would discharge into the Boise River.

The Corps has reviewed the revised plan and approved the design concept. Further, the Corps review of the plans indicates that it would not be inconsistent with or in conflict with the authorized purposes of the project as specified in the Flood Control Act of 1946 and the Water Resources Development Act of 1976. To ensure that the construction and operation of the diversion tunnel will be compatible with the authorized purposes of the Corps project, and will be at no cost to the Federal Government, Article 47 will be added to the license.

It is determined that the Board's request is in the public interest and, therefore, will be granted.

It is ordered that:

(A) The license for Project No. 2832 is amended to include a new diversion and outlet tunnel in lieu of a new power tunnel, and to include modification of the existing outlet tunnel for use as both a power and outlet tunnel.

(B) Ordering Paragraph (B)(2) of the Order Issuing License (Major), issued June 10, 1980, is revised to read as follows:

> (2) Project works consisting of: (1) a concrete intake structure; (2) an existing 1,050-foot-long, 21-foot-diameter concrete and steel-lined tunnel; (3) an outdoor type powerhouse containing three Francis turnbines, directly connected to three generators each rated at 27.54 MW and one Francis turbine directly connected to a generator rated at 4.86 MW; (4) step up transformers; (5) 13.8/138 kV generator leads; (6) a 1,650-foot-long, 12-foot-diameter concrete and steel lined diversion tunnel with a stilling basin and outlet chute; and (7) appurtenant facilities.

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MAR 10 1988

(C) The following exhibit drawings filed on March 26, 1984, are approved and made a part of the license superseding the exhibit drawings noted:

EXHIBIT	FERC NO. 2832-	TITLED	SUPERSEDING FERC NO. 2832-
J	6	Location Map	2
K-1	7	Site Plan	3
K-2	8	Site Plan	-
L	9	General Design Drawings and Descriptive Information Information	-
L-1	10	Intake, Tunnel and Powerhouse Cross Sections	4
L-2	11	Powerhouse - Plans and Section	5
L-3	12	Diversion and Outlet Tunnel - Plans and Sections	-

(D) The superseded exhibit drawings are deleted from the license.

(E) Within 90 days of the date of issuance of this order, the Licensee shall file originals of the approved Exhibit drawings reproduced on silver or gelatin 35 mm microfilm mounted on type D (3 3/4" x 7 3/8") aperture cards for each drawing. In addition, the Licensee shall file two Diazo-type duplicate aperture cards. FERC drawing numbers shall be shown in the margin below the title block of the microfilmed drawings, and also in the upper right corner of each card.

(F) The following article is added to and made a part of the license for the Lucky Peak Power Plant Project No. 2832:

Article 47. In order to ensure that the construction and operation of the diversion tunnel will not conflict with the authorized purposes of the Federal Lucky Peak Project, the licensee shall include in an agreement with the U. S. Army Corps of Engineers, procedures for diversion tunnel construction, operation, maintenance, and control at no cost to the Federal Government.

MICROFILMED

MAR 10 1988

(G) The Licensee's failure to file a petition appealing this order to the Commission shall constitute acceptance of this amendment. In acknowledgment of acceptance of this order and its terms and conditions, it shall be signed by the Licensees and returned to the Commission within 60 days from the date this order is issued.

FOR Lawrence R. Anderson
Director, Office of Electric
Power Regulation

MICROFILMED

MAR 10 1988

Project No. 2832

IN TESTIMONY of its acknowledgment of acceptance of all of the terms and conditions of this order, Nampa and Meridian Irrigation District this 1st day of May, 1984, has caused its corporate name to be signed hereto by John J Gale, its _____ President, and its corporate seal to be affixed hereto and attested by David G Overman its _____ Secretary, pursuant to a resolution of its Board of Directors duly adopted on the 1st day of May 1984, a certified copy of the record of which is attached hereto.

By John J. Gale
President

Attest:

David G. Overman
Secretary

(Executed in quadruplicate)

MICROFILMED
MAR 10 1988

Project No. 2832

IN TESTIMONY of its acknowledgment of acceptance of all of the terms and conditions of this order, Boise - Kuna Irrigation District this 1st day of May, 1984, has caused its corporate name to be signed hereto by Carl L German, its Chairman ~~President,~~ and its corporate seal to be affixed hereto and attested by Eula M. Cole its _____ Secretary, pursuant to a resolution of its Board of Directors duly adopted on the 1st day of May 1984, a certified copy of the record of which is attached hereto.

By Carl L German
President

Attest:

Eula M. Cole
Secretary

(Executed in quadruplicate)

MICROFILMED
MAR 10 1988

United States Department of the Interior

BUREAU OF RECLAMATION
CENTRAL SNAKE PROJECTS OFFICE
214 BROADWAY AVENUE
BOISE, IDAHO 83702

IN REPLY
REFER TO: 400
651.

June 26, 1986

Mr. Carl Padour, Manager
Boise Project Board of Control
214 Broadway Avenue
Boise, Idaho 83702

Subject: 1986-87 Lucky Peak Drawdown

Dear Mr. Padour:

In order to accommodate the Lucky Peak Powerplant construction with the requested elevations outlined by your letter of May 8, 1986, for the period August 4, 1986, through January 10, 1987, adjustments in the total Boise System operation must be made. Many of the ramifications of this schedule were discussed at the May 28, 1986, meeting in your office. Without going into all of the operational changes that will be required to meet the requested elevations for Lucky Peak, it must be understood that any water released above the irrigation requirements because of the requested elevations, before the end of the 1986 irrigation season will be charged to the system space held by the districts involved in the powerplant construction. In addition, after the 1986 irrigation season any water released above the 150 ft ^{3}/s minimum flow from Lucky Peak, which cannot be stored because of the requested elevations and the resulting impact on flood control needs, will be charged to the system space held by the districts involved in the powerplant construction. Space held by these districts equivalent to these amounts will have the last refill priority to all other storage in the system, including the non-contracted or streamflow maintenance space in Lucky Peak. This will prevent injury to other storage rights and users in the system not involved in the powerplant project. We will notify you of the amount that is being charged to the districts involved in the construction, so that you may make any change in the construction schedule of elevations needed at Lucky Peak.

In the event space held by the districts involved in the powerplant construction (herein B.O.C.) does not fill in 1987 as a result of the events described above, the Bureau of Reclamation on the B.O.C.'s request will make a portion of its streamflow maintenance water available on the following conditions:

IMPROPERLY FILED

MAR 10 1988

EXHIBIT B

(1) In the event during the 1986-87 storage season the B.O.C.'s space fails to fill by more than 10,000 acre-feet, the Bureau, up to a maximum of 44,700 acre-feet, will make its streamflow maintenance water available during the 1987 irrigation season to cover 50 percent of such shortage, provided however, no streamflow maintenance water will be made available to provide irrigation carry over for the 1988 irrigation season.

(2) The B.O.C. agrees to subordinate its water rights to the extent necessary to repay the Bureau's streamflow maintenance space as follows:

(a) During the 1987-88 storage season, the first waters accruing to the B.O.C.'s space will be transferred to the Bureau's streamflow maintenance space in Lucky Peak Reservoir so that 28,800 acre-feet will be available for release from October 15, 1988, to April 15, 1989. A similar transfer will be made during the 1988-89 storage season provided that the transfer during the 1988-89 storage season shall be sufficient to repay the full amount of water borrowed in 1987.

(b) The maximum repayment required from the B.O.C. will be the amount borrowed from the streamflow maintenance space in the 1987 irrigation season, provided however:

(i) As consideration for making water from the streamflow maintenance account available to the B.O.C. as provided above, the B.O.C. will transfer to the Bureau of Reclamation's streamflow maintenance account a volume of water in addition to the quantity borrowed in the event and to the extent that there exists a shortage in the Bureau of Reclamation's account necessary to permit releases of 80 ft^3/s (28,800 acre-feet) from October 15, 1989, to April 15, 1990. Assuming the streamflow maintenance account fills in 1986, there is now a sufficient amount of water in the account to make diversions during the release periods from 1986 to 1989, with only 15,900 acre-feet available for the October 15, 1989, - April 15, 1990, release period. The maximum transfer prior to and during the above release period will not exceed 12,900 acre-feet under this sub-paragraph.

(ii) In the event the system fills at any time from the date hereof to April 15, 1990, these conditions will terminate and no further repayment of space will be required.

MICROFILMED

MAR 10 1988

If this understanding is acceptable to the Board of Control, I would appreciate your indicating such by having the Chairman of the Boise Project Board of Control sign the concurrence line on the bottom of this letter and return it to me as soon as possible.

Sincerely yours,

Neil Steinman

Project Superintendent

CONCUR

Via Lou L Mugartia
Chairman, Boise Project Board of Control

July 25, 1986
Date

MICROFILMED
MAR 10 1988

CERTIFICATE OF HAND DELIVERY

THE UNDERSIGNED does hereby certify that he caused a copy of the attached Petition in Intervention to be hand delivered on the 8th day of May, 1987 to the following named person:

Mr. Scott Campbell
ELAM, BURKE & BOYD
1010 First Interstate Building
Boise, Idaho 83702

RAYMOND D. GIVNS

MICROFILMED
MAR 10 1988

DMT

United States Department of the Interior

OFFICE OF THE SOLICITOR
PACIFIC NORTHWEST REGION
BOISE FIELD OFFICE
FEDERAL BUILDING & U.S. COURTHOUSE
BOX 020-550 WEST FORT STREET
BOISE, IDAHO 83724

IN REPLY
REFER TO:

MAY 5 1987

RECEIVED
MAY 6 1987
Department of Water Resources
Western Regional Office

LBR.BO.0173

HAND DELIVERED

Mr. Scott L. Campbell
Elam, Burke, and Boyd
702 West Idaho
P.O. Box 1559
Boise, Idaho 83701

RE: Protest of U.S. Bureau of Reclamation, Application to Amend Water Permit No. 63-3618

Dear Mr. Campbell:

Jack Hansen, Neil Stessman, and I would like to thank you for your hospitality during yesterday's 7-hour series of depositions. As I indicated at the close of those depositions, the Bureau of Reclamation will utilize its best efforts to assist you in completing your discovery depositions in advance of the May 15 hearing. With that in mind, I am confirming in writing the availability of the Bureau witnesses you yesterday asked to depose. The following information was given to your Secretary at 10 a.m. this morning by telephone.

Tuesday, May 5, afternoon	- Rich Rigby or John Keys
Wednesday, May 6, 1 p.m.	- Continuation of Neil Stessman
Thursday, May 7, 1 p.m.	- Continuation of Neil Stessman (if necessary); Rich Rigby
Friday, May 8, a.m.	- Joe Wensman
Friday, May 8, 12-1 p.m.	- John Keys (prefer at Fed. Bldg.)
2:30-Completion	- John Keys

If your schedule opens up Wednesday or Thursday morning, Mr. Wensman or Mr. Rigby may be available on a fill-in basis.

The Bureau of Reclamation does not want to continue the May 15 hearing date. The Bureau feels it is of paramount importance that the protest be resolved as soon as possible to give water

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MAR 10 1988

users assurance of available water supplies this water short irrigation season. Should you desire to confirm any times or dates or to schedule any further depositions the week of May 10, please let me know as soon as possible.

Sincerely yours,

John J. Hockberger, Jr.
Attorney

cc: David R. Tuthill, Jr., P.E., Manager, Western Regional Office, Department of Water Resources, 2735 Airport Way, Boise, Idaho 83705

MICROFILMED
MAR 10 1988

ELAM, BURKE AND BOYD
ATTORNEYS AND COUNSELORS AT LAW

FIRST INTERSTATE BUILDING
702 WEST IDAHO
POST OFFICE BOX 1559
BOISE, IDAHO 83701
TELEPHONE 208-343-5454
TELECOPIER 208-343-5454

LAUREL E. ELAM (1888-1974)
CARL A. BURKE (1898-1961)
CARL P. BURKE
PETER J. BOYD
J. RAY DURTSCHI
M. ALLYN DINGEL, JR.
JACK S. GJORDING
JOHN MAGEL
DAVID B. LINCOLN
RICHARD C. MELLON, JR.
ROBERT M. TYLER, JR.
JAMES D. LaRUE
RANDALL A. PETERMAN
WILLIAM J. RUSSELL
KAYE L. O'RIORDAN
RYAN P. ARMBRUSTER
DAVID E. COMSTOCK
MELVILLE W. FISHER II
WILLIAM G. DRYDEN
TODD J. WILCOX
PETER C. K. MARSHALL
KENNETH M. SEBBY
TRUDY HANSON FOUSER
D. ALAN KOFOED
SCOTT L. CAMPBELL
BOBBI KILLIAN DOMINICK
W. DALLAS BURKHALTER
ALAN CONILOGUE
ELAINE D. HANSON
JEFFERY J. VENTRELLA
BRENDA G. MEIER
JOHN J. JANIS
WENDY E.D. SMITH*
*PENN. & D.C. BARS ONLY

May 5, 1987

VIA HAND DELIVERY

RECEIVED
MAY 6 1987
Department of Water Resources
Western Regional Office

John J. Hockberger, Jr.
U.S. Department of the Interior
Office of the Solicitor
Pacific Northwest Regional
Boise Field Office
Federal Building
Box 020-550 W. Fort Street
Boise, ID 83724

Re: Application of U.S. Bureau of Reclamation
to Amend Water Permit No. 63-3618

Dear Mr. Hockberger:

Thank you for your hand-delivered correspondence of May 5, 1987, which I received at 1:30 p.m. today.

I appreciate your confirming in writing the availability of witnesses which I asked to depose yesterday, May 4, 1987. As I indicated during that conversation on May 4, at this time I believe those are the additional employees of the Bureau of Reclamation which may have pertinent information related to this controversy. Other individuals may be identified during the course of the upcoming depositions, in which case I may need to depose those individuals also.

While I will make every effort to complete the required depositions prior to May 15, 1987, so that we can proceed to hearing at that time, as I indicated to you, my calendar does contain matters which I may not be able to reschedule in order to accommodate this accelerated discovery process with respect to this matter.

Additionally, as your May 5, 1987, correspondence indicates, the schedules of Messrs. Stessman, Rigby, Keys, and Wensman will require significant coordination in order to permit their depositions being taken.

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MAR 10 1988

Again, I would like to emphasize that I will make every reasonable effort to complete the required discovery prior to the May 15 hearing date. As I indicated on May 4, however, if it is not possible to complete the required discovery prior to that time, I will reserve the right to request an extension of a reasonable period of time for the hearing date in order to complete the necessary discovery which I deem appropriate. In view of the fact that I received formal notice of the scheduling of this hearing on May 1, 1987, a mere two weeks before the scheduled hearing date, I do not believe a reasonable delay in the conduct of the hearing is inappropriate in view of the time constraints involved in completing the discovery which involves this matter. I assure you, however, that I will only make such a request if it becomes absolutely necessary.

Thank you for your continued cooperation with respect to the scheduling of the employees of the Bureau of Reclamation for deposition.

Very truly yours,

ELAM, BURKE AND BOYD

Scott L. Campbell

SLC:ls
cc: Mr. David Tuthill, Jr., P.E.
Board of Directors, Pioneer Irrigation
Board of Directors, Settler's Irrigation
Ms. Hazel Robinson
Ms. Vicki Keen

MICROFILMED
MAR 10 1988

P 300 238 798

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL
(See Reverse)

SENT TO SCOTT L. CAMPBELL
ELAM, BURKE and BOYD
STREET AND NO. ATTORNEY + COUNSELOR OF LAW
FIRST INTERSTATE Bldg.
P.O., STATE AND ZIP CODE P.O. BOX 1559
BOISE, ID 83701

POSTAGE	$
CERTIFIED FEE	1.67 ¢
SPECIAL DELIVERY	¢
RESTRICTED DELIVERY	¢
SHOW TO WHOM AND DATE DELIVERED	¢
SHOW TO WHOM, DATE AND ADDRESS OF DELIVERY	¢
SHOW TO WHOM AND DATE DELIVERED WITH RESTRICTED DELIVERY	¢
SHOW TO WHOM, DATE AND ADDRESS OF DELIVERY WITH RESTRICTED DELIVERY	¢
TOTAL POSTAGE AND FEES	$ 1.67
POSTMARK OR DATE	

CONSULT POSTMASTER FOR FEES
OPTIONAL SERVICES
RETURN RECEIPT SERVICE

RECEIVED MAR 10 1988

P 300 238 797

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL
(See Reverse)

SENT TO U.S. DEPT OF INTERIOR
STREET AND NO. BUREAU OF RECLAMATION
ATTN: 424 BOX 043
P.O., STATE AND ZIP CODE 550 W. FORT ST.
BOISE, ID 83724

POSTAGE	$
CERTIFIED FEE	1.67 ¢
SPECIAL DELIVERY	¢
RESTRICTED DELIVERY	¢
SHOW TO WHOM AND DATE DELIVERED	¢
SHOW TO WHOM, DATE AND ADDRESS OF DELIVERY	¢
SHOW TO WHOM AND DATE DELIVERED WITH RESTRICTED DELIVERY	¢
SHOW TO WHOM, DATE AND ADDRESS OF DELIVERY WITH RESTRICTED DELIVERY	¢
TOTAL POSTAGE AND FEES	$ 1.67
POSTMARK OR DATE	

CONSULT POSTMASTER FOR FEES
OPTIONAL SERVICES
RETURN RECEIPT SERVICE

RECEIVED MAR 14 1988

PS Form 3800, Apr. 1976

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region

Cecil D. Andrus
Governor

2735 Airport Way
Boise, Idaho 83705
(208) 334-2190

April 30, 1987

U.S. Department of Interior
Bureau of Reclamation
Attn: 424 Box 043
550 W. Fort St.
Boise, ID 83724

Scott L. Campbell
ELAM, BURKE and BOYD
Attorneys and Counselors at Law
First Interstate Bldg.
P.O. Box 1559
Boise, ID 83701

Re: Application for Amendment of Permit No. 63-3618 in the Name of the United States Bureau of Reclamation

Gentlemen:

On April 7, 1987 this office sent to each of the above-referenced parties an acknowledgment of the receipt of a protest on behalf of Settlers Irrigation District and Pioneer Irrigation District to "the issuance of a permit." The first purpose of this letter is to correct this statement, to acknowledge that the protest was in opposition to the above-referenced Application for Amendment.

The second purpose of this letter is to convey the enclosed Notice of Hearing and/or Conference in this matter.

Sincerely,

David R. Tuthill, Jr.

DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

MICROFILMED
MAR 10 1988

DRT:jp

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR AMENDMENT OF PERMIT NO. 63-3618 IN THE NAME OF THE UNITED STATES OF AMERICA, PACIFIC NORTHWEST REGION, BUREAU OF RECLAMATION	NOTICE OF HEARING AND/OR CONFERENCE

On March 12, 1987, The United States of America, Pacific Northwest Region, Bureau of Reclamation, filed with the Department of Water Resources an Application for Amendment of Permit No. 63-3618, to appropriate the public waters of the State of Idaho. On April 6, 1987, the Department received a protest against approval of the said application for amendment from Scott L. Campbell, attorney for Settlers Irrigation District and the Pioneer Irrigation District.

The Department has set the matter of protest for hearing for Friday, May 15, 1987, at 9:00 a.m. in the Third Floor Conference Room, State Towers Building, 450 W. State St., Boise, Idaho, 83720. The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved. A pre-hearing conference may be held beginning at the above set time and prior to the hearing.

MICROFILMED

MAR 10 1988

Dated this 30th day of April, 1987.

David R. Tuthill Jr.

DAVID R. TUTHILL, JR., P.E.

Manager, Western Regional Office

CONFERENCE AND HEARING INFORMATION IN THE
MATTER OF APPROVAL OF AN AMENDED APPLICATION FOR PERMIT

In accordance with Idaho Code, Section 42-203, the following issues are involved in the consideration of the amended application and protest(s):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes at the expense of the requesting party. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be submitted to the parties and the parties may be afforded an opportunity to file exceptions to the proposed decision and present briefs and oral arguments to the Director prior to the issuance of a final decision by the Director. This procedure is required by Idaho Code, Section 42-1701A.

The parties by written stipulation may waive their right to a proposed decision, however, the failure of either party to waive a proposed decision will not prejudice the Director's review of a party's evidence and arguments. However, such a waiver will shorten the decision-making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 42-1701A is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to Rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the district court.

Under the provisions of the Idaho Code, Sections 42-1701A and 67-5215, any court review of the Department's decision on appeal shall be confined to the record created before the Department.

Failure to appear at the time and place set for hearing by the applicant or protestant(s) may allow the Department to dismiss without prejudice the protest(s) or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

MICROFILMED
MAR 10 1988

ELAM, BURKE AND BOYD
ATTORNEYS AND COUNSELORS AT LAW

FIRST INTERSTATE BUILDING
702 WEST IDAHO
POST OFFICE BOX 1559
BOISE, IDAHO 83701
TELEPHONE 208-343-5454
TELECOPIER 208-343-5454

LAUREL E. ELAM (1888-1974)
CARL A. BURKE (1898-1961)
CARL P. BURKE
PETER J. BOYD
J. RAY DURTSCHI
M. ALLYN DINGEL, JR.
JACK S. GJORDING
JOHN MAGEL
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RICHARD C. MELLON, JR.
ROBERT M. TYLER, JR.
JAMES D. LaRUE
RANDALL A. PETERMAN
WILLIAM J. RUSSELL
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ELAINE D. HANSON
JEFFERY J. VENTRELLA
BRENDA G. MEIER
JOHN J. JANIS
WENDY E.D. SMITH*
*PENN. & D.C. BARS ONLY

DRT

April 27, 1987

VIA HAND DELIVERY

John J. Hockberger, Jr.
United States Department of the Interior
Office of the Solicitor
Boise Field Office
Federal Building
Box 020-550 W. Fort Street
Boise, Idaho 83724

Re: Application of U.S. Bureau of Reclamation to Amend Water Permit No. 63-3618

Dear Jack:

Thank you for your correspondence of April 24, 1987. I regret the decision of the Bureau of Reclamation to decline the settlement proposal set forth in my correspondence of April 17, 1987.

During our telephone conversation of April 23, 1987, I did indicate that I had been contacted by Mr. David Tuthill, Jr., of the Idaho Department of Water Resources, concerning the conduct of a hearing with respect to this matter on May 15, 1987. I informed you during our conversation, as I had previously indicated to Mr. Tuthill, that while that date was available on my calendar, my consent to participation in a hearing on that date was contingent upon the completion of the depositions of employees of the Bureau of Reclamation prior to that date. I indicated to you during our conversation that I presently intend to take the deposition of Mr. Neil Stessman and Mr. Jack Hanson of the Central Snake Projects Office of the Bureau of Reclamation. Depending upon what those individuals testify to during the depositions, I may need to depose other employees of the Bureau. I requested you to contact Messrs. Stessman and Hanson to obtain their available dates so that we can schedule their depositions at the earliest possible opportunity.

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MAR 10 1988

RECEIVED
APR 29 1987
Department of Water Resources
Western Regional Office

Thank you for your anticipated cooperation in this regard.

Very truly yours,

ELAM, BURKE AND BOYD

Scott L. Campbell

SLC:ls
cc: Board of Directors,
Pioneer Irrigation District
Board of Directors,
Settler's Irrigation District
Mr. David Tuthill, Jr.
Ms. Vicki Keen
Ms. Hazel Robinson

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MAR 10 1988

B-93
WPRS-PN Reg.
12779

Water and Power Resources Serv
Pacific Northwest Regional Off
Boise, Idaho

3-12-87

To: Dave Futh, II

From: Ed Thomas

Note suggested addition.

3/13/87

Dave - called Statesman legal Dept.
Draft with drawing for advertising.

Judy

3/13/87

SPECIAL NOTE: _____ Amend/ Application No. 63-3618

PROTEST INFORMATION SHEET

Protestant - Name(s)

Scott L. Campbell, Attorney for Settlers Irrigation Dist. &
Pioneer Irrigation Dist.

Address ELAM, BURKE and BOYD, First Interstate Bldg., 702 West Idaho
P O Box 1559 Boise, ID 83701

Attorney - Name & Address _____

Date Filed 4/6/87 Protest Date 4/6/87

Issues _____

Applicant - Attorney - Name & Address _____

Dates: _____

Acknowledgement letters: _____

Hearing Notice: _____

Hearing Date: _____

Other: _____

FILMED
MAR 10 1988

Protest Information submitted in Computer (following hearing): _____

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region

Cecil D. Andrus
Governor

2735 Airport Way
Boise, Idaho 83705
(208) 334-2190

April 7, 1987

U.S. Dept. of Interior
Bureau of Reclamation
Attn: 424 Box 043 83623
550 W. Fort St.
Boise, ID 83724

Gentlemen:

Enclosed is a copy of a protest(s) filed against the issuance of a permit pursuant to your Application for Amendment No. 63-3618. The Department suggests you contact the protestant(s) directly in an effort to resolve the protest(s) and to attempt to resolve the protest(s).

If this office has not been advised within twenty (20) days that the protest(s) has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

If this office can be of further assistance, please contact us.

Yours truly,

Jan S. Kurtz for

DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

MICROFILMED
MAR 10 1988

DRT:jp

Enclosure

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region

Cecil D. Andrus
Governor

2735 Airport Way
Boise, Idaho 83705
(208) 334-2190

April 7, 1987

Scott L. Campbell
ELAM, BURKE and BOYD
Attorneys and Counselors at Law
First Interstate Bldg.
P O Box 1559
Boise, ID 83701

Re: Application for Amendment No. 63-3618 In the Name of United States Bureau of Reclamation

Dear Mr. Campbell:

This office acknowledges receipt of your protest on behalf of Settlers Irrigation District and Pioneer Irrigation District to the issuance of a permit pursuant to the above-referenced amendment for application. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

If this office can be of further assistance, please contact us.

MICROFILMED
MAR 10 1988

Yours truly,

DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

DRT:jp

ELAM, BURKE AND BOYD
ATTORNEYS AND COUNSELORS AT LAW

FIRST INTERSTATE BUILDING
702 WEST IDAHO
POST OFFICE BOX 1559
BOISE, IDAHO 83701
TELEPHONE 208-343-5454
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JEFFERY J. VENTRELLA
BRENDA G. MEIER
JOHN J. JANIS
WENDY E.D. SMITH*
*PENN. & D.C. BARS ONLY

April 6, 1987

RECEIVED
APR 09 1987
Department of Water Resources

RECEIVED
APR 6 1987
Hand-Delivered
Department of Water Resources
Western Regional Office

VIA HAND DELIVERY

David R. Tuthill, Jr., P.E.
Western Region Manager
Department of Water Resources
State of Idaho
2735 Airport Way
Boise, ID 83705

Re: Application for Amendment of Water Permit No. 63-3618
In the Name of the United States Bureau of Reclamation

Dear David:

I have enclosed for filing with the Department an original and one copy of a Protest against the Application for Amendment of Water Permit No. 63-3618.

I have also enclosed a copy of a cover letter which was sent to Mr. Donald Smitchger, President of Settlers Irrigation District, and received by the District office on April 3, 1987. As you can see, this correspondence indicates that the written protest against the application must be received by your office by April 20, 1987. Upon a review of one of the enclosures with this correspondence, Mr. Smitchger discovered that the Notice of Application for Amendment required that protests be filed on or before April 6, 1987. Mr. Smitchger confirmed this latter date with Mr. Ervin Ballou during a telephone conversation on April 3, 1987.

Because of the limitations placed upon my ability to gather information relative to this protest caused by the miscommunication with respect to the protest deadline, I respectfully reserve the right to amend the enclosed Protest and add additional protestants at a later time. The severe time limitations have prevented me from contacting other water user organizations which

MICROFILMED
MAR 10 1988

may wish to formally protest this Application for Amendment on substantially similar grounds as the existing protestants.

I appreciate your understanding in this regard.

Very truly yours,

ELAM, BURKE AND BOYD

Scott L. Campbell

SLC:ls
Enclosures

MICROFILMED
MAR 10 1988

RECEIVED
APR 6 1987
Department of Water Resources
Western Regional Office
RECEIVED
APR 09 1987
Department of Water Resources

Peter J. Boyd
Scott L. Campbell
ELAM, BURKE AND BOYD
1010 First Interstate Building
P.O. Box 1559
Boise, Idaho 83701
(208) 343-5454

Attorneys for Protestants

BEFORE THE DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

IN THE MATTER OF THE APPLICATION FOR AMENDMENT OF PERMIT NO. 63-3618, IN THE NAME OF THE UNITED STATES BUREAU OF RECLAMATION	)	PROTEST

COMES NOW, Settlers Irrigation District and Pioneer Irrigation District, by and through their counsel, Scott L. Campbell, and hereby protest the Application for Amendment of Permit No. 63-3618, heretofore filed by the United States Bureau of Reclamation to change the nature of use of 44,700 acre-feet of stored water in Lucky Peak Reservoir.

Each of the protestants herein possess water storage rights in Lucky Peak Reservoir, pursuant to contracts with the United States Department of the Interior, Bureau of Reclamation.

Settlers Irrigation District, Pioneer Irrigation District, and Farmers Union Ditch Company possess natural flow-of-the-river water rights in the Boise River, pursuant to Farmers Co-op v. Riverside Irrigation District, 14 Idaho 450 (1908), which decision is commonly referred to as the Stewart Decree.

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MAR 10 1988

Protestants believe that the terms of the proposed Amendment of Permit No. 63-3618 may adversely affect the water storage rights of the protestants in Lucky Peak Reservoir.

Protestants further believe that the reasons for the proposed change, as stated in the Application for Amendment of Permit No. 63-3618, which is to "provide a water supply to the users of the Boise Board of Control to offset shortages due to evacuation of Lucky Peak Reservoir during power plant construction," is an improper basis for granting such a change in the nature of use of the water.

Protestants also believe that the modification of the nature of use of 44,700 acre-feet of stored water from streamflow maintenance purposes to irrigation purposes in order to supply water to the users of the Boise Board of Control and not to the protestants or other similarly situated water users constitutes an unjust, preferential treatment of one group of water users to the detriment of the protestants and other similarly situated users of Boise River water.

In this regard, protestants assert that if the 44,700 acre-feet of streamflow maintenance water is changed to irrigation use for the Boise Project Board of Control, a like amount should be changed to irrigation use and be made available to protestants and other similarly situated water users who may desire to contract with the United States Bureau of Reclamation for such additional water during the 1987 irrigation season. This is

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MAR 10 1988

particularly significant in view of the below normal precipitation accumulations in the Boise River drainage during the period of October 1986 through April 1987.

Protestants respectfully request that a hearing be scheduled before the Department of Water Resources to consider these and other objections to the Application for Amendment of Permit No. 63-3618.

DATED This 6th day of April, 1987.

ELAM, BURKE & BOYD

By Scott L. Campbell
Scott L. Campbell, Of the Firm
Attorneys for Protesters

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this 6th day of April, 1987, I caused a true and correct copy of the above and foregoing instrument to be mailed, postage prepaid, to:

John W. Keys, III
Regional Director
Pacific Northwest Region
Bureau of Reclamation
Box 043, 550 W. Fort St.
Boise, ID 83724

Scott L. Campbell
Scott L. Campbell

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MAR 10 1988

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region

Cecil D. Andrus
Governor

2735 Airport Way
Boise, Idaho 83705
(208) 334-2190

March 31, 1987

Donald Smitchger, Pres.
Settlers Irrigation District
P. O. Box 7571
Boise, ID 83706

Re: Application for Amendment No. 63-3618 in the Name of United States Bureau of Reclamation

Dear Mr. Smitchger:

Enclosed is a copy(s) of the above referenced application(s) for amendment which may be of interest to your agency. Please review the application(s) and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter, however, if your agency desires to file a formal protest against the approval of this application(s), your written protest must be received in this office by April 20, 1987 .

If you have any questions regarding the application, please contact this office.

Sincerely,

for DAVID R. TUTHILL, JR., P. E.
Western Region Manager

DRT:jp

Enclosure (s)

MICROFILMED
MAR 10 1988

RECEIVED
APR 6 1987
Department of Water Resources
Western Regional Office

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region

Cecil D. Andrus
Governor

2735 Airport Way
Boise, Idaho 83705
(208) 334-2190

March 31, 1987

Donald Sayre, Chrm.
Pioneer Irrigation District 459-3617
P. O. Box 426
Caldwell, ID 83606

Re: Application for Amendment No. 63-3618 in the Name of United States Bureau of Reclamation

Dear Mr. Sayre:

Enclosed is a copy(s) of the above referenced application(s) for amendment which may be of interest to your agency. Please review the application(s) and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter, however, if your agency desires to file a formal protest against the approval of this application(s), your written protest must be received in this office by April 20, 1987 .

If you have any questions regarding the application, please contact this office.

Sincerely,

Edwin E Ballou

for DAVID R. TUTHILL, JR., P. E.
Western Region Manager

DRT:jp

Enclosure (s)

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MAR 10 1988

phoned Pioneer on 4/3/87 to tell them the last date for protest was 4/6/87 rather than 4/20/87 as stated in this letter. JP 4/3/87

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region

Cecil D. Andrus
Governor

2735 Airport Way
Boise, Idaho 83705
(208) 334-2190

March 31, 1987

Donald Smitchger, Pres.
Settlers Irrigation District
P. O. Box 7571
Boise, ID 83706

Re: Application for Amendment No. 63-3618 in the Name of United States Bureau of Reclamation

Dear Mr. Smitchger:

Enclosed is a copy(s) of the above referenced application(s) for amendment which may be of interest to your agency. Please review the application(s) and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter, however, if your agency desires to file a formal protest against the approval of this application(s), your written protest must be received in this office by April 20, 1987.

If you have any questions regarding the application, please contact this office.

Sincerely,

Erwin E Ballou

for DAVID R. TUTHILL, JR., P. E.
Western Region Manager

MICROFILMED
MAR 10 1988

DRT:jp

Enclosure (s)

Mr. Smitchger phoned to inquire as to why this letter said the last date for protest was 4/20/87 + the ad said 4/6/87. I told him after talking w/Judy that the letter was incorrect + [illegible] On 4/3/87

Draft

United States Department of the Interior

BUREAU OF RECLAMATION
PACIFIC NORTHWEST REGION
FEDERAL BUILDING & U.S. COURTHOUSE
BOX 043 - 550 WEST FORT STREET
BOISE, IDAHO 83724

IN REPLY
REFER TO: 420

MAR 12 1987

RECEIVED
MAR 18 1987
Department of Water Resources
Western Regional Office

Mr. Kenneth Dunn, Director
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

Dear Mr. Dunn:

Re: Permit No. 63-3618/R-1183, Application for Amendment of Water Right Permit, Boise Project, Idaho

Enclosed is an application for amendment of the Lucky Peak Reservoir storage permit to authorize use of up to 44,700 acre-feet of streamflow maintenance water for irrigation in 1987. The streamflow maintenance waters would be replaced in 1988 to 1990, if necessary, from Boise Project irrigation rights under contract to the Boise Project Board of Control.

Dept 3/10/87

Please sign and return the enclosed voucher for payment of the application fee.

This application is pursuant to the agreement dated June 26, 1986 between Neil Stessman, Project Superintendent, United States Bureau of Reclamation (USBR) and Lou L. Murgoitio, Vice Chairman of the Boise Project Board of Control. (Copy attached).

The agreement provides for the release of 1986 carryover storage water from the space of the five districts comprising the Boise Project Board of Control (BPBOC) in order to accommodate the construction of the Lucky Peak Hydropower Plant. The BPBOC has agreed that refill of the vacated space would have the last right of refill in the 1987 water year. This provision assures that all others who are entitled to storage water from the three reservoir systems could not be harmed by the release of 1986 carryover water.

The agreement also provides that the BPBOC will be able to borrow water from some uncontracted reservoir space (recently committed to streamflow maintenance purposes) in 1987 if an irrigation water shortage occurs as a result of the release of carryover water. The mentioned uncontracted space of 102,000 acre-feet is managed by the Bureau of Reclamation in order to sustain

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MAR 10 1988

a Boise River flow of 80 ft^3/s below Lucky Peak Dam from October 15 to April 15 each year. In order not to restrict the Bureau's ability to maintain the 80 ft^3/s flow between October 15, 1987, and April 15, 1988, the amount which can be borrowed was limited by the agreement to 44,700 acre-feet. Also, the 50,000 acre-feet of storage space committed to the Idaho Department of Fish and Game for Streamflow maintenance which typically provides a wintertime Boise River flow of 70 ft^3/s will not be affected by this agreement.

The BPBOC agreed to replace in the system any borrowed water prior to its being needed for streamflow maintenance purposes. In addition, they agreed as a quid pro quo, to contribute for streamflow maintenance purposes up to 12,900 acre-feet of the BPBOC's future Boise Project storage entitlement to guarantee that the 80 ft^3/s flow could be maintained until April 15, 1990. This will insure that the 80 ft^3/s streamflow can be maintained even in an extended drought much more severe than any on record.

Sincerely yours,

John W. Keys, III

Regional Director

Enclosure

MICROFILMED

MAR 10 1988

NOTICE OF APPLICATION FOR AMENDMENT

Notice is hereby given that Permit No. 63-3618 in the name of the United States Bureau of Reclamation was filed on 4/12/1963 for the diversion of 307,000 acre feet from the Boise River with a point of diversion at Lucky Peak Dam within the SE1/4 NE1/4, Sec. 11, T. 2N., R. 3E., to be used for storage for irrigation from 1/1 to 12/31 and irrigation from storage from 4/15 to 10/15 within the irrigation system of the Boise Valley.

On 2/14/1985 the permit was amended to change the nature of use to describe 111,950 acre feet storage for irrigation from 1/1 to 12/31, 111,950 acre feet irrigation from storage from 4/15 to 10/15, 152,300 acre feet storage for streamflow maintenance from 1/1 to 12/31, 152,300 acre feet streamflow maintenance from storage from 1/1 to 12/31, and 28,800 acre feet storage for recreation from 1/1 to 12/31, for a total of 293,050 acre feet.

The permit holder now proposes to amend the permit by allowing (1) use of up to 44,700 acre feet of streamflow maintenance water for irrigation of Boise Project Board of Control (BPBOC) lands in the 1987 season; and (2) use of up to 57,600 acre feet of BPBOC irrigation storage to guarantee streamflow maintenance capacity through April 15, 1990. to the extent the system does not refill by that time.

Information submitted with the application for amendment describes that as consideration for making water from the streamflow maintenance account available to the BPBOC, the BPBOC will transfer to the Bureau of Reclamation's streamflow maintenance account a volume of water in addition to the quantity borrowed in the event and to the extent that there exists a shortage in the Bureau of Reclamation's account necessary to permit releases of 80 cubic feet per second from October 15, 1989 to April 15, 1990, to a maximum of 12,900 acre feet in excess of the amount borrowed.

Any protest against the approval of the proposed amendment must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83709 on or before April 6, 1987. Copies of the Application for Amendment and associated explanatory documents are available upon request.

A. Kenneth Dunn
Director

Published in the Idaho Statesman on 3/19 & 3/26/87.

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MAR 10 1988

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
Western Region

Statehouse
Boise, Idaho 83720
(208) 334-2190

MARCH 11, 1987

The Idaho Statesman
Box 40
Boise, ID 83707

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before APRIL 6, 1987.

Yours truly,

JUDY PENSE
Secretary

Encl.

MICROFILMED
MAR 10 1988

INTER-DEPARTMENT MEMO — 1

FROM Dave Tuthill

DATE 3/10/87

TO Ed Thomas 550 W. Fort Rm 533½ First Desk on Rt

SUBJECT Attached

334-2190

Plz Review & telephone any concerns to the office (lv message) on Wed. I will be in briefly Thurs morn to review messages & I will return your call if necessary.

Thanks, Dave

SIGNATURE

INTER-DEPARTMENT MEMO — 1

FROM Dave Tuthill

DATE 3/10/87

TO Neil Stessman 214 Broadway

SUBJECT

Per our discussion, if you have questions or proposed changes plz leave message at 334-2190.

MICROFILMED
MAR 10 1988

Dave

SIGNATURE

NOTICE OF APPLICATION FOR AMENDMENT

Notice is hereby given that Permit No. 63-3618 in the name of the United States Bureau of Reclamation was filed on 4/12/1963 for the diversion of 307,000 acre feet from the Boise River with a point of diversion at Lucky Peak Dam within the SE1/4 NE1/4, Sec. 11, T. 2N., R. 3E., to be used for storage for irrigation from 1/1 to 12/31 and irrigation from storage from 4/15 to 10/15 within the irrigation system of the Boise Valley.

On 2/14/1985 the permit was amended to change the nature of use to describe 111,950 acre feet storage for irrigation from 1/1 to 12/31, 111,950 acre feet irrigation from storage from 4/15 to 10/15, 152,300 acre feet storage for streamflow maintenance from 1/1 to 12/31, 152,300 acre feet streamflow maintenance from storage from 1/1 to 12/31, and 28,800 acre feet storage for recreation from 1/1 to 12/31, for a total of 293,050 acre feet.

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Information submitted with the application for amendment describes that as consideration for making water from the streamflow maintenance account available to the BPBOC, the BPBOC will transfer to the Bureau of Reclamation's streamflow maintenance account a volume of water in addition to the quantity borrowed in the event and to the extent that there exists a shortage in the Bureau of Reclamation's account necessary to permit releases of 80 cubic feet per second from October 15, 1989 to April 15, 1990, to a maximum of 12,900 acre feet in excess of the amount borrowed.

Any protest against the approval of the proposed amendment must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83709 on or before April 6, 1987. Copies of the Application for Amendment and associated explanatory documents are available upon request.

A. Kenneth Dunn
Director

Published in the Idaho Statesman on 3/19 & 3/26/87.

MICROFILMED
MAR 1 0 1988

February 17, 1987

Scott L. Campbell
Elam, Burke and Boyd
702 West Idaho
P. O. Box 1559
Boise, ID 83701

RE: Permit 63-3618/R-1183

Dear Mr. Campbell:

Thank you for your letter of January 21, 1987, concerning the Bureau of Reclamation to offer to loan to the Boise Project Board of Control stored water designated for stream maintenance flows without an additional amendment to the authorizing permit to authorize a change in nature of use.

I discussed this matter with representatives of the Bureau of Reclamation. If in their opinion it becomes necessary to implement an exchange between irrigation and stream maintenance flow storage water, they will file an application to change the nature of use of the Lucky Peak water right permit. Their decision to request a change will depend upon the amount of storage forcasted to accrue in Lucky Peak. If an application to change the nature of use is filed, notice will be given as provided by Section 42-211, Idaho Code. Because of your expressed interest, I will see that you are provided a copy of the application.

Sincerely,

MICROFILMED
MAR 10 1988

A. KENNETH DUNN
Director

AKD:alw

ELAM, BURKE AND BOYD
ATTORNEYS AND COUNSELORS AT LAW

FIRST INTERSTATE BUILDING
702 WEST IDAHO
POST OFFICE BOX 1559
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BRENDA G. MEIER
JOHN J. JANIS
WENDY E.D. SMITH*
*PENN. & D.C. BARS ONLY

AKD

January 21, 1987

RECEIVED
JAN 22 1987
Department of Water Resources

Mr. A. Kenneth Dunn, Director
Department of Water Resources
State of Idaho
450 West State Street
Boise, ID 83702

Re: Water Permit No. 63-3618/R-1183

Dear Ken:

I am writing concerning Water Permit No. 63-3618/R-1183, as amended by the Idaho Department of Water Resources on February 14, 1985. It is my understanding that this amendment of the prior permit converted approximately 152,300 acre feet of storage water in Lucky Peak Reservoir from noncontracted irrigation use to stream-flow maintenance use.

This law firm represents the Pioneer Irrigation District in the proceeding before the Department of Water Resources involving the Petition to Cancel Water Permit No. 63-9019. A briefing schedule has been established with respect to that proceeding, and in the course of my examination of the exhibits which have been made a part of the hearing record with respect to those proceedings, I discovered two documents which I believe call into question the proper utilization of the waters represented by Water Permit No. 63-3618/R-1183 by the U.S. Bureau of Reclamation.

I refer you to Exhibits 49 and 50 of the hearing record involving Petition to Cancel Water Permit No. 63-9019. I have enclosed copies of these exhibits for your convenience.

Exhibit 49 is a letter, dated May 8, 1986, from Mr. Carl Padour, Project Manager of the Boise Project Board of Control, to Mr. Neil Stessman, Superintendent, Central Snake Projects, U.S. Bureau of Reclamation. The letter deals with the requested early drawdown of Lucky Peak Reservoir, commencing on August 4, 1986, and concluding on September 1, 1986, to bring the reservoir level

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MAR 10 1988

to surface elevation 2960.00. Mr. Padour requests that the reservoir level be retained at that surface elevation through January 10, 1987. This drawdown of the reservoir pool was requested to accommodate the construction needs of the Lucky Peak hydroelectric project.

Exhibit 50 constitutes Mr. Neil Stessman's response, dated June 26, 1986, to Mr. Padour's prior correspondence of May 8, 1986. In Mr. Stessman's correspondence, he sets forth certain conditions and requirements which he required the Boise Project Board of Control irrigation districts to consent to before the August 4, 1986, drawdown of the Lucky Peak Reservoir pool.

Among other things, Mr. Stessman sets forth specific criteria for the drawdown to ensure that the contract storage users who are not participating in the Lucky Peak hydroelectric project will not be injured by the early drawdown of the reservoir. In essence, he has indicated that the excess discharge of waters, over the minimum flow of 150 cfs from Lucky Peak Reservoir will be charged against the irrigation storage rights of the Boise Project Board of Control districts for the 1987 irrigation season.

While I have some question with respect to the authority of the U.S. Bureau of Reclamation to permit the wasting of irrigation storage water downstream for nonirrigation purposes in order to accommodate the construction needs of the Lucky Peak hydroelectric project and debit that discharge from the 1987 storage accounts, my real concern involves the following statement contained in Mr. Stessman's correspondence:

> In the event space held by the districts involved in the powerplant construction (herein B.O.C.) does not fill in 1987 as a result of the events described above, the Bureau of Reclamation on the B.O.C.'s request will make a portion of its streamflow maintenance water available on the following conditions: . . .

(See Exhibit 50.) The second page of Mr. Stessman's correspondence (Exhibit 50) contains the conditions which are referred to in the above-quoted passage.

My concern involving this statement focuses upon the use of water designated as stream-flow maintenance water, presumably under the authority of Water Permit No. 63-3618/R-1183, by the Bureau of Reclamation for the Boise Project Board of Control districts for irrigation purposes. The Bureau of Reclamation took affirmative action to convert a portion of the irrigation storage water right of the permit to stream-flow maintenance

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usage in its Application for Amendment of Permit submitted to the Department on March 9, 1984, by John W. Keys, III. This Application for Amendment of Permit was approved on February 14, 1985, by the Department. It appears from Mr. Stessman's letter, however, that the Bureau of Reclamation intends to utilize a portion of this stream-flow maintenance water for irrigation purposes if the Boise Project Board of Control irrigation districts require additional water during the 1987 irrigation season because of the evacuation of the Lucky Peak Reservoir to accommodate the construction needs of the Lucky Peak hydroelectric project.

It appears that Idaho Code section 42-201 would prohibit such action by the Bureau of Reclamation. It reads as follows:

> Water rights acquired under chapter--Illegal application of water.--(1) All rights to divert and use the waters of this state for beneficial purposes shall hereafter be acquired and confirmed under the provisions of this chapter and not otherwise. And after the passage of this title all the waters of this state shall be controlled and administered in the manner herein provided. Such appropriation shall be perfected only by means of the application, permit and license procedure as provided in this title; provided, however, that in the event an appropriation has been commenced by diversion and application to beneficial use prior to the effective date of this act it may be perfected under such method of appropriation.
>
> (2) No person shall use the public waters of the state of Idaho except in accordance with the laws of the state of Idaho. No person shall divert any water from a natural watercourse or apply water to land without having obtained a valid water right to do so, or apply it to purposes for which no valid water right exists.

It would appear that the utilization of water under a stream-flow maintenance permit for irrigation purposes violates the statutory restriction of this provision, mandating that "no person shall divert any water from a natural watercourse or apply water to land without having obtained a valid water right to do so, or apply it to purposes for which no valid water right exists." (Idaho Code section 42-201.)

If the Bureau of Reclamation desires to change the nature of the intended use of the stream-flow maintenance water granted by

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Permit No. 63-3618/R-1183, it appears that an additional amendment of the permit would be required by Idaho Code section 42-201.

I would like to have your reaction to the concerns expressed above. Please inform me if you agree or disagree with any of the points I have presented in this correspondence and explain what action, if any, the Department of Water Resources intends to take with respect to these matters.

Thank you for your cooperation.

Very truly yours,

ELAM, BURKE AND BOYD

Scott L. Campbell

SLC:ls
Enclosures
cc: Board of Directors,
Pioneer Irrigation District
Board of Directors,
Settler's Irrigation District
Neil Stessman
John W. Keys, III
Raymond Givens, Esq.
William Ringert, Esq.
Randall Fredericks, Esq.
Don Olowinski, Esq.
Larry Sullivan, Esq.
David Tuthill, Jr.
Lee Sisco
Jerry Conley

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MAR 10 1988

NON HAUMANN
RMAN OF THE BOARD
I MURGOITIO
CHAIRMAN OF THE BOARD
IL PADOUR
ECT MANAGER
INETH HENLEY
STANT PROJECT MANAGER
ILYN F. POPE
IETARY-TREASURER
BE HILDEBRANDT
STANT SECRETARY-TREASURER

BOISE PROJECT BOARD OF CONTROL

(FORMERLY BOISE U. S. RECLAMATION PROJECT)

214 BROADWAY
BOISE, IDAHO 83702

May 8, 1986

OPERATING AGENCY FOR 167,000
ACRES FOR THE FOLLOWING
IRRIGATION DISTRICTS

NAMPA-MERIDIAN DISTRICT
BOISE-KUNA DISTRICT
WILDER DISTRICT
NEW YORK DISTRICT
BIG BEND DISTRICT

RECEIVED
JAN 22 1987
Department of Water Resources

Mr. Neil Stessman, Superintendent
Central Snake Projects
U.S. Bureau of Reclamation
214 Broadway Avenue
Boise, Idaho 83702

Dear Neil:

This letter is to formally request an early drawdown of Lucky Peak Reservoir for the 1986 season. The Boise Project Board of Control on behalf of the Boise-Kuna, Nampa and Meridian, Wilder and Big Bend Irrigation Districts request the drawdown begin no later than August 4 and must have a water surface elevation of 2960.00 on September 1st. The September 1 date is critical as the 4040-CC-102-Lucky Peak Power Contract for the existing outlet reliner cites availability to the contractor from that date through January 10, 1987. It is the intent that all reservoir space will be available for flood control on that date. We would assume that the District's position and liability would parallel that of the previous years.

Sincerely,

Carl Padour

Carl Padour
Project Manager
Boise Project Board of Control

CP:ph

cc: Dave Reese - Corps of Engineers
Royse Van Curen - Lucky Peak Power Project

49
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JAN 22 1987
Department of Water Resources

United States Department of the Interior

BUREAU OF RECLAMATION
CENTRAL SNAKE PROJECTS OFFICE
214 BROADWAY AVENUE
BOISE, IDAHO 83702

June 26, 1986

IN REPLY
REFER TO: 400
651.

Mr. Carl Padour, Manager
Boise Project Board of Control
214 Broadway Avenue
Boise, Idaho 83702

Subject: 1986-87 Lucky Peak Drawdown

Dear Mr. Padour:

In order to accommodate the Lucky Peak Powerplant construction with the requested elevations outlined by your letter of May 8, 1986, for the period August 4, 1986, through January 10, 1987, adjustments in the total Boise System operation must be made. Many of the ramifications of this schedule were discussed at the May 28, 1986, meeting in your office. Without going into all of the operational changes that will be required to meet the requested elevations for Lucky Peak, it must be understood that any water released above the irrigation requirements because of the requested elevations, before the end of the 1986 irrigation season will be charged to the system space held by the districts involved in the powerplant construction. In addition, after the 1986 irrigation season any water released above the 150 ft ^{3}/s minimum flow from Lucky Peak, which cannot be stored because of the requested elevations and the resulting impact on flood control needs, will be charged to the system space held by the districts involved in the powerplant construction. Space held by these districts equivalent to these amounts will have the last refill priority to all other storage in the system, including the non-contracted or streamflow maintenance space in Lucky Peak. This will prevent injury to other storage rights and users in the system not involved in the powerplant project. We will notify you of the amount that is being charged to the districts involved in the construction, so that you may make any change in the construction schedule of elevations needed at Lucky Peak.

In the event space held by the districts involved in the powerplant construction (herein B.O.C.) does not fill in 1987 as a result of the events described above, the Bureau of Reclamation on the B.O.C.'s request will make a portion of its streamflow maintenance water available on the following conditions:

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(1) In the event during the 1986-87 storage season the B.O.C.'s space fails to fill by more than 10,000 acre-feet, the Bureau, up to a maximum of 44,700 acre-feet, will make its streamflow maintenance water available during the 1987 irrigation season to cover 50 percent of such shortage, provided however, nc streamflow maintenance water will be made available to provide irrigation carry over for the 1988 irrigation season.

(2) The B.O.C. agrees to subordinate its water rights to the extent necessary to repay the Bureau's streamflow maintenance space as follows:

(a) Buring the 1987-88 storage season, the first waters accruing to the B.O.C.'s space will be transferred to the Bureau's streamflow maintenance space in Lucky Peak Reservoir so that 28,800 acre-feet will be available for release from October 15, 1988, to April 15, 1989. A similar transfer will be made during the 1988-89 storage season provided that the transfer during the 1988-89 storage season shall be sufficient to repay the full amount of water borrowed in 1987.

(b) The maximum repayment required from the B.O.C. will be the amount borrowed from the streamflow maintenance space in the 1987 irrigation season, provided however:

(i) As consideration for making water from the streamflow maintenance account available to the B.O.C. as provided above, the B.O.C. will transfer to the Bureau of Reclamation's streamflow maintenance account a volume of water in addition to the quantity borrowed in the event and to the extent that there exists a shortage in the Bureau of Reclamation's account necessary to permit releases of 80 ft ^{3}/s (28,800 acre-feet) from October 15, 1989, to April 15, 1990. Assuming the streamflow maintenance account fills in 1986, there is now a sufficient amount of water in the account to make diversions during the release periods from 1986 to 1989, with only 15,900 acre-feet available for the October 15, 1989, - April 15, 1990, release period. The maximum transfer prior to and during the above release period will not exceed 12,900 acre-feet under this sub-paragraph.

(ii) In the event the system fills at any time from the date hereof to April 15, 1990, these conditions will terminate and no further repayment of space will be required.

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If this understanding is acceptable to the Board of Control, I would appreciate your indicating such by having the Chairman of the Boise Project Board of Control sign the concurrence line on the bottom of this letter and return it to me as soon as possible.

Sincerely yours,

Neil Stessman

Project Superintendent

CONCUR

Lou L Mungatia

Chairman, Boise Project Board of Control

July 25, 1986

Date

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MAR 10 1988

United States Department of the Interior

BUREAU OF RECLAMATION
PACIFIC NORTHWEST REGION
FEDERAL BUILDING & U.S. COURTHOUSE
BOX 043 - 550 WEST FORT STREET
BOISE, IDAHO 83724

IN REPLY
REFER TO: PN 420
870.-

SEP 19 1986

RECEIVED
SEP 22 1986
Department of Water Resources

Mr. Kenneth Dunn, Director
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

Dear Mr. Dunn:

Re: Permit No. 63-3618 (R-1183) Lucky Peak Reservoir

Enclosed is a Proof of Beneficial Use form for use of water stored in Lucky Peak Reservoir under permit No. 63-3618. Also enclosed is a voucher for $600.00 for the license examination fee. If you will sign the voucher and return it a government check will be issued.

This will supercede the proof of beneficial use post card forwarded with our August 18, 1986 letter.

Sincerely yours,

Harold M. Bowell

Acting Regional Director

Enclosures

cc: Project Superintendent, CSPO, Boise, Idaho (w/enc)
RO Attention: 704 (w/enc)

MICROFILMED
JAN 29 1987

Form 217
03/86

RECEIVED
SEP 22 1986

For Office Use Only
Fee Received $600.00
Date 12-29-86
Receipt # 40915
Receipt by
Reviewed by
Sent to region 1-15-87

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Department of Water Resources

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

Permit No. 63-3618/R-1183

Name(s) of Permit Holder: United States of America Acting through the Regional Director, Pacific Northwest Region, Bureau of Reclamation ✓

Post Office Address: Box 043-550 West Fort Street, Boise, Idaho 83724 ✓

Telephone No. 208-334-1165

Source of Water: Boise River ✓

Extent of Use:
Storage for Irrigation----------111,950 acre ft.
Irrigation for Storage----------111,950 acre ft.
Storage for Streamflow maintenance----------152,300 acre ft.
Streamflow Maintenance from storage----------152,300 acre ft.
Storage for recreation---------- 45,800 acre ft.*
*Reservoir pool - 28,800 acre ft.
Bank Storage 17,000 acre ft.
Total 45,800 acre ft.

Total rate and/or volume for which proof is submitted _____ cfs 310,050 acre-feet

Show the date water was first diverted and beneficially used under this permit: 1-1-1055

Measuring Device: Required? __ Yes X No
Installed? __ Yes X No

Fee enclosed $ 600.00 ✓
(See License Examination Fee Schedule)

Flow Measurement Port: Required? __ Yes X No
Installed? __ Yes X No

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JAN 2 9 1987

Person to contact to accompany the Department representative during the field examination:

Ed Thomas - Code 424 (208) 334-1165
(Name) (Telephone Number)

United States Bureau of Reclamation, Box 043-550 West Fort Street
Boise, Idaho 83724
(Address)

The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

9/19/86 Harold C. McBruce ACTING Regional Director
Date Signature of Permit Holder (and title, if appropriate)

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

- -

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL
AUGUST 31, 1986

138253

U.S. DEPT. OF INTERIOR
BUREAU OF RECLAMATION
ATTN: 424 BOX 043
550 W. FORT ST.
BOISE, ID 83724

PROOF DUE NOTICE

RE: PERMIT NO. 63-3618

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF THE ABOVE REFERENCED WATER PERMIT WAS THAT PROOF OF THE EXTENT OF YOUR BENEFICIAL USE MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE NOVEMBER 1, 1986. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST.) ENCLOSED IS A FORM WHICH WHEN ACCOMPANIED BY THE LICENSE EXAMINATION FEE OR A COMPLETED FIELD EXAMINATION REPORT PREPARED BY A CERTIFIED WATER RIGHT EXAMINER MAY BE USED TO SUBMIT THE REQUIRED PROOF.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU OR A PREVIOUS OWNER OF THIS PERMIT HAVE NOT RECEIVED A PRIOR EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME IF THE DELAY IS FOR REASONABLE CAUSE AS PROVIDED IN SECTION 42-204, IDAHO CODE. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION WHICH MIGHT BRING TITLE TO THE WATER IN QUESTION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. AN EXTENSION OF TIME REQUEST FORM IS ENCLOSED FOR YOUR CONVENIENCE.

EITHER AN ACCEPTABLE PROOF OF BENEFICIAL USE SUBMITTAL OR AN ACCEPTABLE REQUEST FOR AN EXTENSION OF TIME MUST BE RECEIVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE DESCRIBED PROOF DUE DATE. IF NEITHER IS RECEIVED, THE DEPARTMENT WILL SEND YOU A LAPSE NOTICE. WITHIN SIXTY (60) DAYS OF THE MAILING OF THE LAPSE NOTICE, THE PERMIT WILL NO LONGER BE OF ANY FORCE NOR EFFECT.

SINCERELY,

MICROFILMED
JAN 29 1987

RITA FLECK
SECRETARY/RECORDS MANAGER

ENCLOSURES

United States Department of the Interior

BUREAU OF RECLAMATION
PACIFIC NORTHWEST REGION
FEDERAL BUILDING & U.S. COURTHOUSE
BOX 043 - 550 WEST FORT STREET
BOISE, IDAHO 83724

IN REPLY
REFER TO: PN 420
870.-

AUG 18 1986

RECEIVED
AUG 19 1986
Department of Water Resources

Mr. Kenneth Dunn, Director
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

Dear Mr. Dunn:

Re: Permit No. 63-3618 (R-1183) Lucky Peak Reservoir

Enclosed is a signed post card indicating proof of beneficial use of water stored in Lucky Peak Reservoir under permit No. 63-3618.

Sincerely yours,

John W. Keys, III

ACTING

Regional Director

Enclosures

cc: Project Superintendent, CSPO, Boise, Idaho (w/enc)
RO Attention: 704 (w/enc)

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JAN 23 1987