



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098
Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

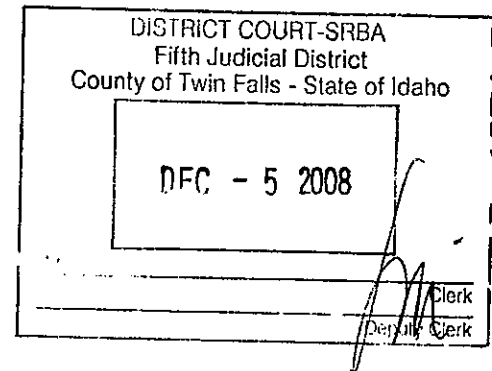
C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

December 3, 2008

DIANA DELANEY
CLERK OF THE DISTRICT COURT
PO BOX 2707
TWIN FALLS ID 83303-2707

Re: Snake River Basin Adjudication (SRBA)
Partial Decree for Water Right No. 65-12733



Dear Diana,

Omissions were discovered recently on the partial decree referenced above. Remarks from the Director's Report were apparently omitted in the Partial Decree that was issued without objection. Pertinent pages of the Director's Report are enclosed for your convenience.

The remarks omitted are underscored in the attached recommended report. You will see an essential description of the flows for given period of use in a given reach of river are missing from the partial decree. One exception that is underscored is the remark for the place of use. You will see the Director's Report was silent on this element. Knowing the Court prefers to describe a place of use for each water right, I have suggested the place of use remark for an amended partial decree, after notice and hearing of course.

IDWR stands ready to respond to any questions the Court may have. I extend my thanks for considering this request.

Sincerely,

Donald V. Shaff, MPA
Adjudication Bureau Chief

DVS:ss:region
Enclosures

C: IWRB, M. Case
G. Baxter
Western Region
R. Brown

12/01/2008

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

RIGHT NUMBER: 65-12733

NAME AND ADDRESS: STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098

SOURCE: PAYETTE RIVER
SOUTH FORK PAYETTE RIVER

TRIBUTARY: SNAKE RIVER
TRIBUTARY: PAYETTE RIVER

QUANTITY: 1,350.000 CFS

THE RATES OF FLOW FOR THIS MINIMUM STREAM FLOW ARE DESCRIBED
IN DETAIL IN THE PURPOSE AND PERIOD OF USE PORTION OF THE WATER
RIGHT.

PRIORITY DATE: 04/26/1985

THIS MINIMUM STREAM FLOW IS SUBORDINATE AND SUBJECT TO
FUTURE APPROPRIATIONS OF WATER FROM THE SOUTH FORK AND
MAIN STEM OF THE PAYETTE RIVER FOR MUNICIPAL AND DOMESTIC
PURPOSES WITHIN THE MINIMUM FLOW WATERSHED.

POINT OF DIVERSION:

T09N R03E S28 SWSW End of Stream Flow Within BOISE County
T09N R04E S20 NENE Begin of Stream Flow Within BOISE County
T09N R04E S20 NENE End of Stream Flow Within BOISE County
T09N R07E S31 NESE Begin of Stream Flow Within BOISE County
T09N R07E S31 NESE End of Stream Flow Within BOISE County
T09N R07E S32 NENW End of Stream Flow Within BOISE County
T09N R07E S32 NENW Begin of Stream Flow Within BOISE County
T09N R07E S32 SWNW Begin of Stream Flow Within BOISE County
T09N R07E S32 SWNW End of Stream Flow Within BOISE County
T09N R11E S2 SWNW Begin of Stream Flow Within BOISE County

DESCRIPTION OF REACHES: REACH A - BEGINNING AT THE BOUNDARY OF
THE SAWTOOTH WILDERNESS AREA IN UNSURVEYED SECTION 2, T9N,
R11E, TO THE CONFLUENCE OF THE DEADWOOD & SOUTH FORK PAYETTE
RIVERS IN NENW, S32, T9N, R7E, BOISE CO.
REACH B - BEGINNING AT END OF REACH A TO THE UPSTREAM END OF
THE OXBOW BEND, APPROXIMATELY 1056 YARDS DOWNSTREAM FROM
THE CONFLUENCE OF THE DEADWOOD & SOUTH FORK PAYETTE RIVERS
IN THE SWNW, S32, T9N, R7E, BOISE CO.
REACH C - BEGINNING AT THE END OF REACH B TO A POINT IN THE NESE,
S31, APPROXIMATELY 200 YARDS DOWNSTREAM FROM THE SECTION
LINE BETWEEN SECTION 31 AND 32, T9N, R7E, BOISE CO.
REACH D - BEGINNING AT THE END OF REACH C TO THE CONFLUENCE OF
THE SOUTH FORK PAYETTE RIVER AND THE MIDDLE FORK PAYETTE RIVER
IN THE NENE, S20, T9N, R4E, BOISE CO.
REACH E - BEGINNING AT THE END OF REACH D TO THE CONFLUENCE OF
THE PAYETTE RIVER AND NORTH FORK PAYETTE RIVER IN THE SWSW,
S28, T9N, R3E, BOISE CO.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MINIMUM STREAM FLOW	01/01 04/18	212.000 CFS
	07/16 12/31	1,100.000 CFS
	04/19 07/15	212.000 CFS

DESCRIPTION OF FLOWS BY REACH:

REACH A:

FROM 01-01 TO 04-18 212 CFS

FROM 04-19 TO 07-15 1100 CFS

FROM 07-16 TO 12-31 212 CFS

REACH B:

FROM 01-01 TO 04-14 337 CFS

FROM 04-15 TO 08-31 1100 CFS

FROM 09-01 TO 12-31 337 CFS

REACH C:

FROM 01-01 TO 04-14 337 CFS

FROM 04-15 TO 08-31 337 CFS MONDAY - THURSDAY

FROM 04-15 TO 08-31 400 CFS FRIDAY - SUNDAY

FROM 09-01 TO 12-31 337 CFS

REACH D:

FROM 01-01 TO 04-14 337 CFS

FROM 04-15 TO 08-31 1100 CFS

FROM 09-01 TO 12-31 337 CFS

REACH E:

FROM 01-01 TO 04-14 407 CFS

FROM 04-15 TO 08-31 1350 CFS

FROM 09-01 TO 12-31 407 CFS

THIS MINIMUM STREAM FLOW IS FOR THE PRESERVATION OF SCENIC, RECREATIONAL AND AESTHETIC VALUES AND FOR THE MAINTENANCE OF FISH AND WILDLIFE HABITAT.

PLACE OF USE:

PLACE OF USE FOR THIS RIGHT IS THE REACH OF THE SOUTH FORK PAYETTE RIVER BEGINNING AT THE BOUNDARY OF THE SAWTOOTH WILDERNESS AREA IN UNSURVEYED T09N R11E 2 TO THE CONFLUENCE OF THE SOUTH FORK PAYETTE RIVER AND THE MIDDLE FORK PAYETTE THENCE DOWNSTREAM ON THE PAYETTE RIVER TO THE CONFLUENCE OF THE PAYETTE RIVER AND THE NORTH FORK PAYETTE RIVER.

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

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

UPON A FUTURE FINDING AND ORDER OF THE DIRECTOR THAT GAUGING STATIONS ARE REQUIRED TO MAINTAIN THE APPROVED MINIMUM FLOW ON THE SOUTH FORK AND MAIN STEM, PAYETTE RIVER, SUCH MEASURING DEVICES SHALL BE PERMANENTLY INSTALLED AND MAINTAINED AS SPECIFIED BY THE DEPARTMENT. THE DIRECTOR RETAINS JURISDICTION, AS DESCRIBED BELOW, TO REVIEW AND AMEND ANY AND ALL PARAMETERS OF THIS RIGHT. THE BOARD, UPON RECEIVING A REQUEST, OR UPON ITS OWN INITIATIVE, MAY PETITION THE DIRECTOR FOR AN AMENDMENT TO THE RIGHT. THE PETITION MUST SET FORTH ANY SIGNIFICANT CHANGE IN CIRCUMSTANCES AND EVIDENCE OF THE PUBLIC INTEREST SUPPORTING THE PROPOSED AMENDMENT. THE DIRECTOR WILL NOTIFY THE GENERAL PUBLIC AND SPECIFIC PERSONS OR KNOWN INTERESTED PARTIES OF THE PROPOSED CHANGE, AND CONDUCT A HEARING FOR THE PURPOSE OF DETERMINING WHETHER THE RIGHT SHOULD BE AMENDED IN THE PUBLIC INTEREST. THE BURDEN OF PROOF AT THE HEARING SHALL BE UPON THE PERSONS OR PARTIES SEEKING THE AMENDMENT TO ESTABLISH THAT THE AMENDMENT OF THE RIGHT WOULD BE IN THE PUBLIC INTEREST.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: APR-11-2000
PAGE: A-158-----
RIGHTS FROM: SOURCE: PAYETTE RIVER TRIBUTARY: SNAKE RIVER

RIGHT NUMBER: 65-12733

NAME & ADDRESS: STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE
BOISE ID 837200000SOURCE: PAYETTE RIVER, SOUTH FORK TRIBUTARY: PAYETTE RIVER
PAYETTE RIVER SNAKE RIVER

QUANTITY: 1350.00 CFS

THE RATES OF FLOW FOR THIS MINIMUM STREAM FLOW ARE DESCRIBED
IN DETAIL IN THE PURPOSE AND PERIOD OF USE PORTION OF THE WATER
RIGHT.

PRIORITY DATE: 04/26/1985

THIS MINIMUM STREAM FLOW IS SUBORDINATE AND SUBJECT TO FUTURE
APPROPRIATIONS OF WATER FROM THE SOUTH FORK AND MAIN STEM OF THE
PAYETTE RIVER FOR MUNICIPAL AND DOMESTIC PURPOSES WITHIN THE
MINIMUM FLOW WATERSHED.

POINT OF DIVERSION:	T09N R04E S20	NENE	(INSTREAM BEGINNING POINT)	Within BOISE County
	R07E S31	NESE	(INSTREAM BEGINNING POINT)	
	S32	NENW	(INSTREAM BEGINNING POINT)	
		SWNW	(INSTREAM BEGINNING POINT)	
	R11E S02		(INSTREAM BEGINNING POINT)	
	R03E S28	SWSW	(INSTREAM ENDING POINT)	
	R04E S20	NENE	(INSTREAM ENDING POINT)	
	R07E S31	NESE	(INSTREAM ENDING POINT)	
	S32	NENW	(INSTREAM ENDING POINT)	
		SWNW	(INSTREAM ENDING POINT)	

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: APR-11-2000
PAGE: A-159

RIGHTS FROM:	SOURCE: PAYETTE RIVER	TRIBUTARY: SNAKE RIVER
RIGHT NUMBER:	65-12733	(CONT)

POINT OF DIVERSION: (CONT)

DESCRIPTION OF REACHES:

REACH A - BEGINNING AT THE BOUNDARY OF THE SAWTOOTH WILDERNESS AREA IN UNSURVEYED SECTION 2, T9N, R11E, TO THE CONFLUENCE OF THE DEADWOOD & SOUTH FORK PAYETTE RIVERS IN NENW, S32, T9N, R7E, BOISE CO.

REACH B - BEGINNING AT END OF REACH A TO THE UPSTREAM END OF THE OXBOW BEND, APPROXIMATELY 1056 YARDS DOWNSTREAM FROM THE CONFLUENCE OF THE DEADWOOD & SOUTH FORK PAYETTE RIVERS IN THE SWNW, S32, T9N, R7E, BOISE CO.

REACH C - BEGINNING AT THE END OF REACH B TO A POINT IN THE NESE, S31, APPROXIMATELY 200 YARDS DOWNSTREAM FROM THE SECTION LINE BETWEEN SECTION 31 AND 32, T9N, R7E, BOISE CO.

REACH D - BEGINNING AT THE END OF REACH C TO THE CONFLUENCE OF THE SOUTH FORK PAYETTE RIVER AND THE MIDDLE FORK PAYETTE RIVER IN THE NENE, S20, T9N, R4E, BOISE CO.

REACH E - BEGINNING AT THE END OF REACH D TO THE CONFLUENCE OF THE PAYETTE RIVER AND NORTH FORK PAYETTE RIVER IN THE SWSW, S28, T9N, R3E, BOISE CO.

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
MINIMUM STREAM FLOW	01-01 04-18	212.00 CFS
MINIMUM STREAM FLOW	04-19 07-15	1100.00 CFS
MINIMUM STREAM FLOW	07-16 12-31	212.00 CFS

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: APR-11-2000
PAGE: A-160

RIGHTS FROM: SOURCE: PAYETTE RIVER TRIBUTARY: SNAKE RIVER

RIGHT NUMBER: 65-12733 (CONT)

PERIOD OF USE: (CONT)

DESCRIPTION OF FLOWS BY REACH:
REACH A: FROM 01-01 TO 04-18 212 CFS
FROM 04-19 TO 07-15 1100 CFS
FROM 07-16 TO 12-31 212 CFS
REACH B: FROM 01-01 TO 04-14 337 CFS
FROM 04-15 TO 08-31 1100 CFS
FROM 09-01 TO 12-31 337 CFS
REACH C: FROM 01-01 TO 04-14 337 CFS
FROM 04-15 TO 08-31 337 CFS MONDAY - THURSDAY
FROM 04-15 TO 08-31 400 CFS FRIDAY - SUNDAY
FROM 09-01 TO 12-31 337 CFS
REACH D: FROM 01-01 TO 04-14 337 CFS
FROM 04-15 TO 08-31 1100 CFS
FROM 09-01 TO 12-31 337 CFS
REACH E: FROM 01-01 TO 04-14 407 CFS
FROM 04-15 TO 08-31 1350 CFS
FROM 09-01 TO 12-31 407 CFS
THIS MINIMUM STREAM FLOW IS FOR THE PRESERVATION OF SCENIC,
RECREATIONAL AND AESTHETIC VALUES AND FOR THE MAINTENANCE OF FISH
AND WILDLIFE HABITAT.

PLACE OF USE:

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

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

RIGHTS FROM: SOURCE: PAYETTE RIVER TRIBUTARY: SNAKE RIVER

RIGHT NUMBER: 65-12733 (CONT)

OTHER PROVISIONS: (CONT)

UPON A FUTURE FINDING AND ORDER OF THE DIRECTOR THAT GAUGING STATIONS ARE REQUIRED TO MAINTAIN THE APPROVED MINIMUM FLOW ON THE SOUTH FORK AND MAIN STEM, PAYETTE RIVER, SUCH MEASURING DEVICES SHALL BE PERMANENTLY INSTALLED AND MAINTAINED AS SPECIFIED BY THE DEPARTMENT.

THE DIRECTOR RETAINS JURISDICTION, AS DESCRIBED BELOW, TO REVIEW AND AMEND ANY AND ALL PARAMETERS OF THIS RIGHT. THE BOARD, UPON RECEIVING A REQUEST, OR UPON ITS OWN INITIATIVE, MAY PETITION THE DIRECTOR FOR AN AMENDMENT TO THE RIGHT. THE PETITION MUST SET FORTH ANY SIGNIFICANT CHANGE IN CIRCUMSTANCES AND EVIDENCE OF THE PUBLIC INTEREST SUPPORTING THE PROPOSED AMENDMENT. THE DIRECTOR WILL NOTIFY THE GENERAL PUBLIC AND SPECIFIC PERSONS OR KNOWN INTERESTED PARTIES OF THE PROPOSED CHANGE, AND CONDUCT A HEARING FOR THE PURPOSE OF DETERMINING WHETHER THE RIGHT SHOULD BE AMENDED IN THE PUBLIC INTEREST. THE BURDEN OF PROOF AT THE HEARING SHALL BE UPON THE PERSONS OR PARTIES SEEKING THE AMENDMENT TO ESTABLISH THAT THE AMENDMENT OF THE RIGHT WOULD BE IN THE PUBLIC INTEREST.

EXPLANATORY MATERIAL: BASIS OF CLAIM - LICENSE

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 65-12733

NAME AND ADDRESS: IDAHO WATER RESOURCE BOARD
IDAHO WATER RESOURCE BOARD
STATEHOUSE
BOISE, ID 83720

SOURCE: PAYETTE RIVER, SOUTH FORK TRIBUTARY: PAYETTE RIVER
PAYETTE RIVER SNAKE RIVER

QUANTITY: 1350.00 CFS

THE RATES OF FLOW FOR THIS MINIMUM STREAM FLOW ARE DESCRIBED
IN DETAIL IN THE PURPOSE AND PERIOD OF USE PORTION OF THE WATER
RIGHT.

PRIORITY DATE: 04/26/1985

POINT OF DIVERSION: T09N R03E S28 SWSW (Instream Ending Point) Within Boise County
R04E S20 NENE (Instream Ending Point)
NENE (Instream Beginning Point)
R07E S31 NESE (Instream Ending Point)
NESE (Instream Beginning Point)
S32 NENW (Instream Ending Point)
NENW (Instream Beginning Point)
SWNW (Instream Ending Point)
SWNW (Instream Beginning Point)
R11E S02 (Instream Beginning Point)

DESCRIPTION OF REACHES:

REACH A - BEGINNING AT THE BOUNDARY OF THE SAWTOOTH WILDERNESS
AREA IN UNSURVEYED SECTION 2, T9N, R11E, TO THE CONFLUENCE OF
THE DEADWOOD & SOUTH FORK PAYETTE RIVERS IN NENW, S32, T9N,
R7E, BOISE CO.

REACH B - BEGINNING AT END OF REACH A TO THE UPSTREAM END OF THE
OXBOW BEND, APPROXIMATELY 1056 YARDS DOWNSTREAM FROM THE
CONFLUENCE OF THE DEADWOOD & SOUTH FORK PAYETTE RIVERS IN THE
SWNW, S32, T9N, R7E, BOISE CO.

REACH C -
BEGINNING AT THE END OF REACH B TO A POINT IN THE NESE, S31,
APPROXIMATELY 200 YARDS DOWNSTREAM FROM THE SECTION LINE
BETWEEN SECTION 31 AND 32, T9N, R7E, BOISE CO.

REACH D - BEGINNING AT THE END OF REACH C TO THE CONFLUENCE OF
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IN THE NENE, S20, T9N, R4E, BOISE CO.

REACH E - BEGINNING AT THE END OF REACH D TO THE CONFLUENCE OF
THE PAYETTE RIVER AND NORTH FORK PAYETTE RIVER IN THE SWSW,
S28, T9N, R3E, BOISE CO.

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Minimum Stream Flow	01-01 TO 04-18	212.00 CFS
Minimum Stream Flow	04-19 TO 07-15	1100.00 CFS
Minimum Stream Flow	07-16 TO 12-31	212.00 CFS

PLACE OF USE:

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

UPON A FUTURE FINDING AND ORDER OF THE DIRECTOR THAT GAUGING
STATIONS ARE REQUIRED TO MAINTAIN THE APPROVED MINIMUM FLOW ON

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

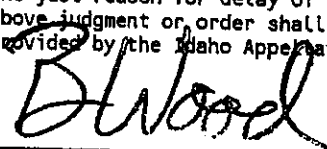
THE SOUTH FORK AND MAIN STEM, PAYETTE RIVER, SUCH MEASURING DEVICES SHALL BE PERMANENTLY INSTALLED AND MAINTAINED AS SPECIFIED BY THE DEPARTMENT.

THE DIRECTOR RETAINS JURISDICTION, AS DESCRIBED BELOW, TO REVIEW AND AMEND ANY AND ALL PARAMETERS OF THIS RIGHT. THE BOARD, UPON RECEIVING A REQUEST, OR UPON ITS OWN INITIATIVE, MAY PETITION THE DIRECTOR FOR AN AMENDMENT TO THE RIGHT. THE PETITION MUST SET FORTH ANY SIGNIFICANT CHANGE IN CIRCUMSTANCES AND EVIDENCE OF THE PUBLIC INTEREST SUPPORTING THE PROPOSED AMENDMENT. THE DIRECTOR WILL NOTIFY THE GENERAL PUBLIC AND SPECIFIC PERSONS OR KNOWN INTERESTED PARTIES OF THE PROPOSED CHANGE, AND CONDUCT A HEARING FOR THE PURPOSE OF DETERMINING WHETHER THE RIGHT SHOULD BE AMENDED IN THE PUBLIC INTEREST. THE BURDEN OF PROOF AT THE HEARING SHALL BE UPON THE PERSONS OR PARTIES SEEKING THE AMENDMENT TO ESTABLISH THAT THE AMENDMENT OF THE RIGHT WOULD BE IN THE PUBLIC INTEREST.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



Barry Wood
Administrative District Judge
Presiding Judge of the
Snake River Basin Adjudication