

Form 240
10/07

AUG 12 2008

WATER RESOURCES
WESTERN REGIONExchange No. 75007STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED

APPLICATION FOR EXCHANGE OF WATER

Under the provisions of Section 42-240, *Idaho Code*, any person holding a surface water right may apply to exchange such water for the use of water from the same source or a different surface water source. Surface water right holders may also apply to exchange for the use of water authorized for diversion under one or more other valid water rights from the same source or a different surface water source.

1. INFORMATION ABOUT THE APPLICANT

Applicant Idaho Water Resource Board Telephone No: 208-227-4800
(Name of Applicant)
322 E. Front St. Boise ID 83720 Email: brad.pattone@idwr.idaho.gov
(Mailing Address) (Zip Code)

Co-Applicant's Water Right(s) to be exchanged 65-2927A storage water per attached agreement
Attach a photocopy of the License, Permit, Transfer, Decree, or Claim evidencing the right(s) or attach a printout obtained from IDWR.

2. INFORMATION ABOUT THE CO-APPLICANT

Complete this portion if the applicant proposes to exchange for water diverted under a water right held by another party. The co-applicant is the holder of the right to be exchanged for the applicant's right. If more space is needed, please attach another sheet containing information about each co-applicant.

Co-applicant Regional Director PN Region, Bureau of Reclamation Telephone No: 208-378-5306
(Name of Co-applicant)
1150 N. Curtis Rd. Boise, ID 83706 Email: —
(Mailing Address) (Zip Code)

Co-applicant's Water Right(s) to be exchanged flow augmentation water released from storage from upper Snake River
Attach a photocopy of the License, Permit, Transfer, Decree, or Claim evidencing the right(s) or attach a printout obtained from IDWR. system
managed by IDWR

3. EXCHANGE AGREEMENT – Attach a copy of the written agreement between the applicant and the co-applicant(s).

4. EXCHANGE INFORMATION – Complete Part A or Part B to explain how the proposed exchange will operate.

Part A – For an exchange involving two or more water right holders for two or more water rights
co-applicant

The applicant proposes to divert _____ cfs and/or 2800 acre feet per year of water authorized to be diverted under the co-applicant's water right(s) listed above at * % of _____ % Govt. Lot _____ Sec. _____ Township _____ Range _____ B.M., _____ County.

Additional points of diversion, if any: _____

In exchange for authorization to divert water as described above, _____ cfs and/or 2800 acre feet per year of water authorized for diversion under the applicant's water right(s) listed above will be (complete 1 or 2 below):

- CO-Applicant's
- made available to the co-applicant for diversion at _____ % of _____ % Govt. Lot _____ Sec. _____ Township _____ Range _____ B.M., _____ County.

Additional points of diversion, if any: _____

OR

- released from storage by the co-applicant and into North Fork Payette River at NE % of NE % Govt. Lot 155 Sec. 26 Township 14N Range 3E B.M., Valley County.
(from Cascade Reservoir)

* to be retained in upper Snake River system for beneficial use instead of being released for flow augmentation in the Snake River downstream from Milner Dam

Part B -- For an exchange involving only the applicant's water right(s). N/A

The applicant proposes to divert _____ cfs and/or _____ acre feet per year of water at _____ 1/4 of _____ 1/4, Govt. Lot _____ Sec. _____ Township _____ Range _____ B.M., _____ County. Additional points of diversion, if any: _____

In exchange for authorization to divert water as described above, _____ cfs and/or _____ acre feet per year of water authorized for diversion under the applicant's water right(s) listed above will be (complete 1 or 2 below):

1. diverted from _____ at _____ 1/4 of _____ 1/4, Govt. Lot _____ Sec. _____ Township _____ Range _____ B.M., _____ County and injected into _____ at _____ 1/4 of _____ 1/4, Govt. Lot _____ Sec. _____ Township _____ Range _____ B.M., _____ County.

OR

2. released from storage by the applicant into _____ at _____ 1/4 of _____ 1/4, Govt. Lot _____ Sec. _____ Township _____ Range _____ B.M., _____ County.

Additional Explanation – Attach additional sheets if necessary.

THIS ACTION WOULD EXCHANGE 2800 AF/YR OF BLACK CANYON IRRIGATION DISTRICT STORAGE SPACE IN CASCADE RESERVOIR WITH STORAGE WATER RELEASED FROM FEDERAL RESERVOIRS IN THE UPPER SNAKE BASIN FOR FLOOD AUGMENTATION. THE BLACK CANYON SPACE WILL BE LEASED BY THE IDAHO WATER RESOURCE BOARD AND WILL BE DELIVERED TO THE SNAKE RIVER FOR FLOOD AUGMENTATION, ALLOWING THE BOARD TO USE 2800 AF FROM THE UPPER SNAKE STORAGE FOR OTHER PURPOSES ON THE EASTERN SNAKE PLAIN.

If this exchange is not intended to be a permanent arrangement, please describe the circumstances under which the proposed exchange will terminate. THE AGREEMENT CONTEMPLATES A 2034 END DATE

5. MAPS -- Attach two maps, one showing the water right(s) as it is (they are) now used, and another showing how the water right(s) will be used under the proposed exchange. Each map should be on an 8 1/2"x11" sheet and should clearly identify the locations of the point(s) of diversion, injection, and re-diversion of water and the place(s) of use by 40-acre subdivisions, section, township and range of the public land survey. Photocopies of USGS 7 1/2-minute topographic quadrangles are preferred as base maps. MAPS WAIVED BY IDWR

SIGNATURE

Applicant hereby asserts that no one will be injured by such exchange of water and acknowledges that the applicant and/or the co-applicant will be responsible for all actions taken pursuant to this exchange. I understand that any willful misrepresentations made in this application may result in voiding its approval.

B. J. Felt FOR THE IDAHO WATER RESOURCE BOARD
Applicant's Signature (and title if application is for an organization)

11-AUG-08
Date

FOR DEPARTMENT USE ONLY

This exchange application contains 8 pages, including attachments.

Received by SL Date 8/12/08 Fee N/A

Received by _____ Date _____ Receipt No. _____

Preliminary review by SL

Published in STAR NEWS, IDAHO STATESMAN, POST REGISTER, LEWISTON TRIBUNE, TIMES NEWS

Publication dates AUGUST 21 & 28, 2008

Protests filed by _____

Copies of protests forwarded by _____

Watermaster recommendation requested on AUGUST 14, 2008

Watermaster recommendation received on _____

Hearing held by _____ Date _____

Recommended for Approval _____ Denial _____ By _____

2003 MAR 31 PM 4 28

**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) **ORDER OF PARTIAL DECREE**
)
) **For Water Right 65-02927A**
)
_____)

On February 12, 2003, a *Special Master's Report and Recommendation* was filed for the above water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 65-02927A is hereby decreed as set forth in the attached *Partial Decree* Pursuant to I.R.C.P. 54(b).

DATED March 31, 2003



ROGER S. BURDICK
Presiding Judge
Snake River Basin Adjudication

ORDER OF PARTIAL DECREE

APPLICATION 75007
Attachment A
(3 pgs)

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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 65-02927A

2003 MAR 31 PM 4 28

NAME AND ADDRESS: REGIONAL DIRECTOR, PN REGION
REGIONAL DIRECTOR, PN REGION
BUREAU OF RECLAMATION
1150 N CURTIS RD
BOISE, ID 83706-1234

A BENEFICIAL USE OF A PORTION OF THE WATER REPRESENTED HEREBY IS MADE BY THE LANDOWNERS WITHIN BLACK CANYON IRRIGATION DISTRICT, EMMETT IRRIGATION DISTRICT, NOBLE DITCH COMPANY, FARMERS COOPERATIVE IRRIGATION COMPANY, THE LOWER PAYETTE DITCH COMPANY, AND BY INDIVIDUALS WHO HAVE ENTERED INTO CONTRACT WITH THE UNITED STATES FOR IRRIGATION WATER FROM THIS STORAGE RESERVOIR. SUCH BENEFICIAL USE IS SUBJECT TO AND PURSUANT TO CONTRACT WITH THE UNITED STATES (AS MAY HEREAFTER BE SUPPLEMENTED OR AMENDED) FOR IRRIGATION AND OTHER PERMITTED PURPOSES AS AUTHORIZED BY LAW AND CONTRACTS.

SOURCE: PAYETTE RIVER, NORTH FORK TRIBUTARY: PAYETTE RIVER

QUANTITY: 697500.00 AFY

TOTAL RESERVOIR CAPACITY IS 700,000 ACRE FEET WHEN FILLED TO ELEVATION 4828 FEET AND MEASURED AT THE UPSTREAM FACE OF THE DAM. THIS TOTAL CAPACITY IS EQUAL TO THE COMBINED QUANTITIES OF WATER RIGHTS 65-02927A AND 65-2927B.

PRIORITY DATE: 12/24/1937

POINT OF DIVERSION: T14N R03E S26 LOT 5 (NENE) Within Valley County
LOT 1 (NENE)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation Storage	01-01 TO 12-31	697500.00 AFY
	Irrigation from Storage	01-01 TO 12-31	697500.00 AFY
	Power Storage	01-01 TO 12-31	697500.00 AFY
	Power from Storage	01-01 TO 12-31	697500.00 AFY

PLACE OF USE: PLACE OF USE IS WITHIN VALLEY, BOISE, GEM, PAYETTE, WASHINGTON, CANYON AND ADA COUNTIES.

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. I.C. SECTION 42-1412(6).

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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.


Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

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MEMORANDUM OF AGREEMENT

BETWEEN

**UNITED STATES OF AMERICA, DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION, PACIFIC NORTHWEST REGION, SNAKE RIVER AREA OFFICE
AND THE
STATE OF IDAHO, IDAHO WATER RESOURCE BOARD**

This Memorandum of Agreement (Agreement) is entered into between the UNITED STATES OF AMERICA, acting through the Snake River Area Office, Pacific Northwest Region, Bureau of Reclamation, Department of the Interior, hereinafter referred to as Reclamation, and the State of Idaho, Idaho Water Resource Board, hereinafter referred to as IWRB, collectively, the foregoing hereinafter referred to as the Parties, and defines the terms and responsibilities associated with a Water Exchange Agreement with the purpose of: (1) enabling Reclamation to meet its commitments contained in the Upper Snake Biological Opinion; (2) documenting IWRB's need to provide storage water from the Water District No. 01 Rental Pool as mitigation for irrigation (surface and/or groundwater pumping); and (3) documents Black Canyon Irrigation District's agreement to provide up to 2,800 acre-feet of storage water from the Water District No. 65 Rental Pool in non-drought (critical) years for exchange above Milner Dam.

RECITALS

In compliance with Biological Opinions, and consistent with the Snake River Water Rights Act of 2004, P.L. 108-447, all applicable State and Federal laws, Federal repayment contracts, and Water District No. 65 Rental Pool procedures, Reclamation leases up to 427,000 acre-feet of storage water from Idaho rental pools, (established to administer the rental of storage water under Idaho Code § 42-1765 and IDAPA 37.02.03.040), for flow augmentation to enhance anadromous fish passage as part of broader salmon recovery programs in accordance with Idaho Code § 42-1763B. In most years, Reclamation rents water for this purpose from the Water District No. 01 Rental Pool, the Shoshone-Bannock Water Bank, and the Water District No. 65 Rental Pool.

Black Canyon Irrigation District (BCID) has storage repayment contracts with Reclamation for storage space in Reclamation reservoirs in Water District No. 65. BCID intends to lease up to 2,800 acre-feet of water into the Water District No. 65 Rental Pool for purposes of the IWRB renting the water out of the Rental Pool; however, in some drought years, it is anticipated that BCID will need the water for irrigation and will choose to lease no water, or less than 2,800 acre-feet, into the Rental Pool for this purpose.

The IWRB has a need for storage water in Water District No. 01 as mitigation for irrigation (surface and/or ground water pumping). The IWRB intends to rent up to 2,800 acre-feet of water from BCID through the Water District No. 65 Rental Pool for the purpose of exchanging the rented water from Water District No. 65 with water that Reclamation has rented from Water District No. 01 or the Shoshone-Bannock Water Bank for flow augmentation purposes.

AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing recitals, the mutual covenants and conditions set forth herein, the Parties agree as follows:

1. The IWRB agrees to notify Reclamation no later than June 15 of each year it rents water from the Water District No. 65 Rental Pool and intends to exchange that water for Water District No. 01 Rental

**APPLICATION 75007
ATTACHMENT B (3 pgs)**

Pool water or Shoshone-Bannock storage water. The maximum quantity subject to exchange under this Agreement is 2,800 acre-feet per year.

2. In each year in which Reclamation rents water from the Water District No. 01 Rental Pool or the Shoshone-Bannock Water Bank for flow augmentation purposes, Reclamation agrees to exchange up to 2,800 acre-feet of water to the IWRB for a like quantity of water the IWRB has rented from Water District No. 65 Rental Pool, contingent on approval of the exchange by the Idaho Department of Water Resources.
3. Water may not be available every year for release for flow augmentation purposes at Milner Dam. Reclamation incurs no liability under this Agreement if it fails to release flow augmentation water past Milner for any reason.
4. If for any reason Reclamation can no longer count water from the Water District No. 65 Rental Pool or the Shoshone-Bannock Water Bank to meet the purposes stated in Recital A of this Agreement, the exchange will not occur.
5. There is no payment due from Reclamation for the exchange. All fees or payments associated with the rentals by the IWRB from the Water District No. 65 Rental Pool will be the responsibility of the IWRB. Fees or payments associated with the rentals from the Water District No. 01 Rental Pool or the Shoshone-Bannock Water Bank by Reclamation are the responsibility of Reclamation.
6. This Agreement shall become effective as of the date of Reclamation's signature and shall extend through December 31, 2034.
7. No member of or delegate to Congress or the Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom, but this restriction shall not be construed to extend to this Agreement if made with a corporation or company for its general benefit.
8. The IWRB warrants that no person or agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee except bona fide employees and bona fide commercial agencies maintained by the IWRB for the purpose of securing business. For breach or violation of this warranty, Reclamation shall have the right to revoke this Agreement without liability or in its discretion to require the IWRB to pay the full amount of such commission, percentage, brokerage, or contingency fee to Reclamation.
9. This Agreement is neither a fiscal nor a funds obligating document. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the Parties of this Agreement will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This Agreement does not provide such authority.
10. Any information furnished to Reclamation, under this Agreement, is subject to the Freedom of Information Act (5 U.S.C. 552).
11. Either Party may formally request modification of this Agreement. Modifications shall be made by mutual consent and by the issuance of a written modification to this Agreement, signed and dated by both Parties prior to any changes being performed.
12. The principal contacts for this Agreement are:

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Reclamation Agreement No. 1425-08MA1S7123

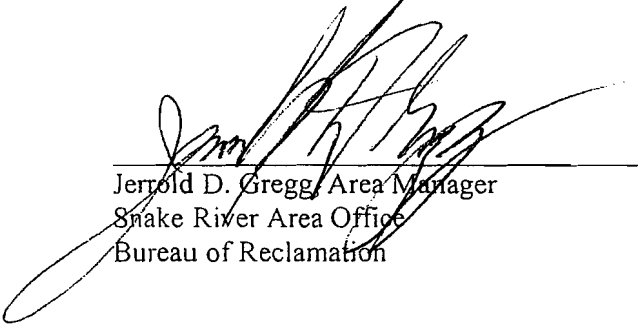
Reclamation

Jerrold D. Gregg
Area Manager
Snake River Area Office
230 Collins Road
Boise, ID 83702-4520

IWRB

Jerry Rigby
Chairman
Idaho Water Resource Board
P.O. Box 83720
Boise, ID 83720

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the last date written below.



Jerrold D. Gregg, Area Manager
Snake River Area Office
Bureau of Reclamation

May 12, 2008

Date

Mr. Jerry Rigby, Chairman
Idaho Water Resource Board
P.O. Box 83720
Boise, ID 83720-0098