

STATUS CONFERENCE NOTES:

RIGHT NO. PIONEER ID RTS.

DATE: 6-8-10

63-2529 & 5219 - Motion will be filed
& add comb. use condition on 5219.
by D. Starnak.

63-32584 - No objections OK & go.
63-2114 - SF5 filed.

63-5255 - XMINO will be put on this one.
Also will have pre-1987 info & Jan
by next week. 10:30 on 8/10/10.

X10
SF5

63-32513 - Will withdraw claim. Did
withdraw to objection. SMRR will be done.
63-2891 - SF5 filed.

63-21706 - SF5 done

Shurte, Jan

From: Shurte, Jan
Sent: Wednesday, February 24, 2010 11:04 AM
To: 'Andy Waldera'
Subject: FW: Pioneer ID Rights Status Conferences

Hi Andy,

How do you feel about adding the Nampa Meridian Irrigation District settlement language to this water right also (63-32584)?

Jan

From: Bryce Farris [mailto:bryce@ringertlaw.com]
Sent: Tuesday, February 23, 2010 11:34 AM
To: Shurte, Jan; Andy Waldera
Subject: RE: Pioneer ID Rights Status Conferences

Jan and Andy:

I noticed that Jan's memo includes two rights which NMID has not objected but are for beneficial use claims relating to rights which were objected to (63-32513 and 63-32584). It sounds like 63-32513 will be withdrawn so any concerns would be eliminated for that claim.

As to 63-32584, Jan's memo indicates that both 63-2114 and 63-32584 need the NMID settlement language. I am curious as to whether there will be an SF5 for this claim with the NMID language, which is what I would request. I suppose I could file a motion for a late objection to 63-32584, but it doesn't seem necessary given my intent is to have the same language as the underlying licensed right. Let me know your thoughts.

Thanks,

S. Bryce Farris
Attorney at Law
RINGERT LAW CHARTERED
455 S. Third Street
P.O. Box 2773
Boise, ID 83701
Tel: (208) 342-4591
Fax: (208) 342-4657
bryce@ringertlaw.com

From: Shurte, Jan [mailto:Jan.Shurte@idwr.idaho.gov]
Sent: Tuesday, February 23, 2010 11:08 AM
To: Bryce Farris
Subject: FW: Pioneer ID Rights Status Conferences

This shows which ones I am going to add NMID to. Jan

From: Shurte, Jan
Sent: Monday, February 22, 2010 4:34 PM

To: Spencer, Nick; Williams, Ray; Andy Waldera; Courtney, Andrea
Subject: Pioneer ID Rights Status Conferences

Hi everyone,

Here is a memo that I put together very quickly this afternoon to give you an idea as to what I have as the current status of these recommendations for tomorrow's hearings.

Once again, feel free to correct me or let me know anything left out in the morning, if possible. At least it will give a semi-guide as we go through these during the conferences.

Jan

Shurte, Jan

From: Shurte, Jan
Sent: Wednesday, February 24, 2010 11:18 AM
To: 'Bryce Farris'
Cc: Spencer, Nick; Williams, Ray
Subject: NMID Rights

Hi Bryce,

I am working on putting that remark on 63-32584. Nick and I decided we would try it with an SF5 and I have sent an email to Andy to see if he had a problem with adding it.

I had another question. It looks like 63-198AJ got lost in the shuffle somewhere. As far as I can tell it was set for status conference last October and not for the one yesterday. Lindsey Lateral withdrew their response and all that is left is your objection to the pou which we have squared away here.

Is there any reason we cannot include it with the others for SF5s?

Thanks,
Jan

Shurte, Jan

From: Andy Waldera [AJW@moffatt.com]
Sent: Wednesday, February 24, 2010 12:25 PM
To: Shurte, Jan
Subject: RE: Pioneer ID Rights Status Conferences

Jan,

That should be fine.

--Andy

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Jan

Only 9/09

All 9/8 status conf.

Subject: Pioneer ID Updates – 2-22-10

This is a fast update (on the info I have) for Pioneer's remaining rights. I am putting them in order of court timing for tomorrow:

63-21706 – Pioneer ok with .1 cfs. We are ok with Ada rather than Canyon & zip code of course. SOU objection was the hold up – Andy wanted the SOU remark removed because this is a 1961 priority dated right which is junior to all the reservoirs anyway and he thought it was useless. Was to talk with BPBC & BOR about it and if they agree to remove SOU remark per Andy's idea, then ready for SF5. Otherwise, not ready for SF5 now.

Andy has not got back to me on this and I do not know if he has spoken to BPBC or BOR. SM Booth mentioned using 63-230M language if season of use is left on. I have in my notes that the only changes to the season of use language would be in the 1st sentence as follows "Diversion under this right prior to April 1 and after October 31 shall occur...." nothing else changed in the remark and it looks like it leaves out the [for irrigation] portion of that first sentence. Pioneer may have spoken to BPBC and BOR at this point and is ready to drop their objection or remove the season of use remark. We can talk about this later.

SOU OK READY FOR SF5

63-21713 – Claim was for 15 cfs and we recommended 11.2 cfs from ERO measurement (fall). We allowed them to do a summer measurement and they came back with 17.9 cfs. Pioneer only claimed 15 cfs, so at the time I spoke with Andy that was ok to recommend 15 cfs. I did not find out until today when I looked in the file that Wilder withdrew it's objection, so basically as long as Andy is still ok with the 15 cfs we can do an SF5 on this one.

SF5 Circulating

SF5 prepared – Nick signed off on 9/21/09 and I signed off on 9/23/09. I hand delivered the SF5 to Dylan Lawrence for Andy on 9-24-09 at a meeting. I think Andy did say it got to him a while later.

SF5 OK Andy will look for on

63-2891 & 63-32513 – Rec. as applied, permitted and licensed. Objection wanted 13 cfs. ERO measured 10.6 cfs. PID ok with the 10 cfs on 63-2891. Want us to delete the wastewater condition even though not objected to. NOTE: 63-32513 filed for the same pod, Dave disallowed because Scott wrote letter that stated the bigger pump was installed in 1983. They can file a new application for permit for any extra water (.6 cfs). Andy was going to get back to me on whether they wanted to continue the .6 cfs portion of the objection. Will also need NMID settlement language as used in 63-2275. Not ready for SF5s.

needs SF5 today

WILL WITHDRAW

10 cfs OK

Just need to know what Pioneer (Andy) has decided to do on this one.

will withdraw 63-32513

63-5255 – Objected to quantity. Still no measurement submitted – Andy feels there was a measurement done and he is still tracking it down. Wants to add another pod now and I told him to get me some evidence it was in there before 1987. Needs NMID Settlement language also. Not ready for SF5.

Awaiting measurement and pre-1987 info. NOT READY FOR SF5

1.6 cfs

63-2114 – Claimed and licensed for 8.64 cfs – recommended that way. Objection wants 20 cfs. ERO measured 10.2 cfs. Pioneer is now ok with 8.64 cfs, however, they want the remaining 1.56 cfs to be recommended on their Claim No. **63-32584**. This was a claim that came in between 12-6 and 12-14 the year I filed the report on 12-12. So, it did not get recommended in the report and needs to have an ADR filed in the fall report. Both of these need the NMID settlement language on them. I have evidence of a larger diversion flow from the back file on 63-2114 and the measurement so should be able to recommend claim. Probably won't want SF5 signed until claim gets decreed. Andy will need to speak to that, so no SF5 done on 63-2114 yet.

no objection filed ok

needs SF5 NMID lang Copy emails NMID OK on SF5

SF5

From: Shurte, Jan

Sent: Tuesday, September 08, 2009 2:46 PM

To: Spencer, Nick; Williams, Ray; Harris, Lori

Subject: Pioneer ID Updates

This is an update (on the info I have) for Pioneer's. Don't quote me on this, it's just to follow along. Andy should have the updates on these for the conference. If not, here's my best take from all my notes.

63-5199 – Received ERO's measurement copy on 9/2/2009 (last week) from Andy. Measurement was taken in 7/07 and no copy given to us or found until recently. Agreed to add a pod and up the diversion rate to 3.8 cfs per amount filed on claim. Actual measured amount for both wells is 4.02 cfs. Zip code and Pioneer is ok on the acre foot amount on this one since it is based on b/u. Ready to do SF5. *DONE*

63-5200 – Pioneer ok with cfs and acre foot amount now. Agreed to put that one of the wells is on the centerline between the SENE and NESE, S34 and put both of those pods on the right. It is on the line per gps by ERO. Also corrected AF amount under POU – was 3,989.8 AF/YR and should be 3,898.8. Total was correct. Ready to do SF5. *DONE*

63-166A, B, 167A, B, 179A, C – All were going to settle on language that basically stated that Mason Creek and Franklin could not file a transfer to change the pod, pou or nou unless Pioneer was first contacted and ok'd it. Then, Andy mentioned something along the line that he was talking with Scott and realized that when Mason Creek &/or Franklin Ditch do not need their water (for whatever reason) then it goes on down and irrigates Pioneer lands, so now they were wanting to put their pou on Franklin and Mason Creek's rights. It kind of goes back to why they may have filed competing rights anyway. We will likely hear what the outcome of their discussions were. Not ready for SF5s. *WILL BE CONT.*

63-2891 & 63-32513 – Rec. as applied, permitted and licensed. Objection wanted 13 cfs. ERO measured 10.6 cfs. PID ok with the 10 cfs on 63-2891. Want us to delete the wastewater condition even though not objected to. NOTE: 63-32513 filed for the same pod, Dave disallowed because Scott wrote letter that stated the bigger pump went in 1983. They can file a new application for permit for any extra water (.6 cfs). Andy was going to get back to me on whether they wanted to continue the .6 cfs portion of the objection. Will also need NMID settlement language as used in 63-2275. Not ready for SF5s.

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63-21706 – Pioneer ok with .1 cfs (if you can believe it). We are ok with Ada rather than Canyon & zipcode of course. SOU objection was the hold up – Andy wanted the SOU remark removed because this is a 1961 priority dated right which is junior to all the reservoirs anyway and he thought it was useless. Was to talk with BPBC & BOR about it and if they agree to remove SOU remark per Andy's idea, then ready for SF5. Otherwise, not ready for SF5 now.

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I looked in the file that Wilder withdrew it's objection, so basically as long as Andy is still ok with the 15 cfs we can do an SF5 on this one.

SF5's done:

63-161BU

63-224

63-225

63-294

63-295

63-371

63-2275

can go forward to PD as

63-2276

email.

63-2294

63-5219

63-5237

63-21714 - PD Issued

63-21731

63-21739

63-32514

63-32515

NOTE: Talk with Nick about 63-32496 to see if it

an uncontested overlap - send SM Booth an

That's the best I got and it is in the order of the hearing schedules. See ya later – have questions call me quick.

Jan

Shurte, Jan

From: Shurte, Jan
 Sent: Tuesday, September 08, 2009 2:46 PM
 To: Spencer, Nick; Williams, Ray; Harris, Lori
 Subject: Pioneer ID Updates

- 63-32496 Done

UNCONTESTED OVERLAP
 SHOOT EMAIL TO TED
 & ANDY. -

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* 63-5200 - Pioneer ok with cfs and acre foot amount now. Agreed to put that one of the wells is on the centerline between the SENE and NESE, S34 and put both of those pods on the right. It is on the line per gps by ERO. Ready to do SF5. STATUS CONF. 2/25/00

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63-2891 & 63-32513 - Rec. as applied, permitted and licensed. Objection wanted 13 cfs. ERO measured 10.6 cfs. PID ok with the 10 cfs on 63-2891. Want us to delete the wastewater condition even though not objected to. NOTE: 63-32513 filed for the same pod, Dave disallowed because Scott wrote letter that stated the bigger pump went in 1983. They can file a new application for permit for any extra water (.6 cfs). Andy was going to get back to me on whether they wanted to continue the .6 cfs portion of the objection. Not ready for SF5s. SET STATUS CONF. 2/23/10 11:00 AM

63-5255 - Objected to quantity. Still no measurement submitted - Andy feels there was a measurement done and he is still tracking it down. Want to add another pod now and I told him to get me some evidence it was in there before 1987. Not ready for SF5. SET STATUS FOR 2/23/00 AT 11:00 AM

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SF5's done:

63-161BU - COURT HAS
 63-224 - " "
 63-225 - " "
 63-294 - " "
 63-295 - " "
 63-371 - " "
 63-2275 - WE HAVE
 63-2276 - " "

9/8/2009

63-2294 ✓

63-5219 ✓

63-5237 ✓

63-21714 (2 Sent & returned yet)

63-21731 ✓

63-21739 ✓

63-32514 ✓

63-32515 ✓

~~WHAT HAS HAPPENED HERE?~~ BP ISSUED

That's the best I got and it is in the order of the hearing schedules. See ya later – have questions call me quick.

Jan

9/8/2009

From 63-230M

Possible settlement in 63-21706 – 9-09

Comment: Per Court Hearing and ruling of Special Master Ted Booth the language in the period of use remark under this right was changed from what appeared on the SF5 as follows (1st sentence only) - Diversion under this water right prior to April 1 and after October 31 shall occur - nothing else changed in the entire paragraph from that which was signed off on and proposed under the SF5. Order will be following this change here.

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LATE REPORT

*Will need
to submit
this late claim
is processed
to do SF5 for
63-2114*

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63-2114 - Claimed and licensed for 8.64 cfs - recommended that way. Objection wants 20 cfs. ERO measured 10.2 cfs. Pioneer is now ok with 8.64 cfs, however, they want the remaining 1.56 cfs to be recommended on their late claim No. 63-32584. I have evidence of a larger diversion flow from the backfile on 63-2114 and the measurement so should be able to recommend late claim. Probably won't want SF5 signed until late claim gets decreed. Andy will need to speak to that, so no SF5 done on 63-2114 yet. NEEDS A RECOMMENDATION NOT A LATE CLAIM. NEED SETTLEMENT REMARK.

63-21706 - Pioneer ok with .1 cfs (if you can believe it). We are ok with Ada rather than Canyon & zipcode of course. SOU objection was the hold up - Andy wanted the SOU remark removed because this is a 1961 priority dated right which is junior to all the reservoirs anyway and he thought it was useless. Was to talk with BPBC & BOR about it and if they agree to remove SOU remark per Andy's idea, then ready for SF5. Otherwise, not ready for SF5 now. - SM WANTS 63-230M LANGUAGE IF SOU LEFT. SET STATUS 2/23/10 AT 11:00 AM.

* 63-21713 - Claim was for 15 cfs and we recommended 11.2 cfs from ERO measurement (fall). We allowed them to do a summer measurement and they came back with 17.9 cfs. Pioneer only claimed 15 cfs, so at the time I spoke with Andy that was ok to recommend 15 cfs. I did not find out until today when I looked in the file that Wilder withdrew it's objection, so basically as long as Andy is still ok with the 15 cfs we can do an SF5 on this one. - DO SF5. - DONE

SF5's done:

63-161BU - COURT HAS
 63-224 - "
 63-225 - "
 63-294 - "
 63-295 - "
 63-371 - "
 63-2275 - WE HAVE
 63-2276 - "

9/8/2009

63-2294

63-5219

63-5237

63-21714 (Sent & returned yet)

63-21731

63-21739

63-32514

63-32515

~~WHAT HAS HAPPENED HERE?~~ BP ISSUED

That's the best I got and it is in the order of the hearing schedules. See ya later – have questions call me quick.

Jan

9/8/2009

From 63-230M

Possible settlement in 63-21706 – 9-09

Comment: Per Court Hearing and ruling of Special Master Ted Booth the language in the period of use remark under this right was changed from what appeared on the SF5 as follows (1st sentence only) - Diversion under this water right prior to April 1 and after October 31 shall occur - nothing else changed in the entire paragraph from that which was signed off on and proposed under the SF5. Order will be following this change here.

An ADR was filed for 63-32584, objection period passed on 2-01-10 with no objections. Can do an SF5 on 63-2114 adding the NMID settlement language and changing the zip code. Question is does Andy want to wait until 63-32584 is decreed or do the SF5 on 63-2114 now since the objection period has passed.

OK to do an SF5 on 2114
Add NMID on 63-32584
yes per memo
Andy is going to draft SF5's
Prepare SF5

63-2529 – This is the one we have submitted the SF5's to Dylan Lawrence in a draft form showing Indian Creek as 63-2529B for the 10 cfs, 63-2529A for 87 cfs with the condition that when they are combined they cannot exceed 87 cfs, which was the total of the license to begin with. We will then recommend 63-2529 as disallowed and recommended as 63-2529A & 2529B. I did limit this Indian Creek right together with their other Indian Creek right, 63-5219 to a total of 18.4 cfs when both are in use. This is based on the measurement submitted for Pioneer by ERO. This was involved in the AF case, so AF will stay on groundwater portion 63-2529A.

63-9109 – AF objection settled. Will leave af amount on. Can change zip code. This leaves the Season of Use objection. It appears they may want to keep that remark since it gives them an earlier beginning season of use. It is our typical shoulder remark for those licensed rights where the season of use was different than our standards now. If the season of use licensed was smaller than the standard. We added the shoulder remark. Other than that, I think this one is ready for an SF5. Just need to hear what Andy has to say.

63-166A, B, 167A, B, 179A, C – Things have become complicated. I believe there will be a request to vacate the scheduling conference and put on hold for some time. Many factors to consider and the attorneys are working at agreements on each side.

Please let me know tomorrow morning if there is something I missed or that is entirely wrong. I have been gone due to Bob's surgery and hurried through this memo. Glad to change it.

Jan

→ Also 63-32580 late claim objected

Jon Gould hasn't heard anything except
to ask FRANKLIN Ditch Co & Mason Cr.
ditch Co. to add Pioneer Surg. Dist.
lands
Paul Arington - Representing Mason Creek now.
Trial sched. for Dec. 14, 15 & 16th
Status conf. set for June 8th at 11:30.

STATUS CONFERENCE NOTES:

RIGHT NO. 03-127A+B

DATE: 5-5-09

Andy Walden - ~~the~~ Top

Shelley Davis - Al Barker

Matt McGee - The Top

The issues involved are concerning
the

See Nick's email on 63-21706 - OK on
100% & we're OK on ADA County not Canyon
Holdup on SFS pending 504 dec.

63-02294 - Claimed 150 cfs - ^{WORKING ON NMID LANGUAGE}
Licensed for 50 cfs & rec. for 50 gfs.
Objection to cfs & zip code. Cannot
increase cfs. Court ruled they would
change zip code & we will in our
records. ~~WILL~~ WITHDRAW OBJECTION

63-2891 - Claimed 13 cfs. Licensed &
rec. for 10 cfs. Cannot increase licensed
amount. Zip code same. ^{WILL GET BACK TO ME ON WHAT PIONEER STATES.}

63-2114 - Claimed 8.64 cfs. Licensed
& rec. for 8.64 cfs. Obj. wants 20 cfs?
Zip code issue. Also NMID obj. for w.
DATE REMEASURED SEE NOTES

63-2276 - Licensed for 43 cfs. Claimed
for 120 cfs. Objection wants 120 cfs &
zip. ~~DATE FOR NMID~~

63-2275 - Zip code only - Court ruled
from bench to change. Can this be withdrawn.
NMID WW obj. CHECK ON ZIP CODE -

63-5219 - Zip code & Pl. of use. ^{ERRONEOUS ERROR}
Cannot figure out pl. of use objection.
All others are the same 34,204.61 acres,
w/o obj. ? Ask Andy. NMID WW obj.
PIONEER SHOULD WITHDRAW OBJECTION.

PIONEER
WILL WITHDRAW
8BS. AS
HONG AS
ZIPCODE
IS OK

~~SFS~~
63-5237 - Zipcode only. Place of
use also - no explanation. Same
acreage as all - ask Andy. NM10
OBS. ALSO

Del
Notes
✓
SEE
NOTES
LET ANDY
KNOW
ANDY

63-5235 - Quantity - just need
measurement or theoretical calc.
Info. on water depth, up, etc.
* * Will need flow meas.

63-21739 - Meas. 9.64 cfs (SFS)
rec 9.64. Wastewater remark
NM10 objected anyway. SHOULD BE CANYON
COUNTY. PIONEER
CONTACT INCLUDE IN SFS FOR NM10. THE COUNTY
PIONEER IS OK WITH THE CFS.

63-32496 - uncontested overlap

(SFS)
PIONEER
OK WITH
THIS - WITH
WITHDRAW
OBSERVATION
PIONEER

63-32515 - ERO meas. 96 cfs +
43 cfs covered under License # 63-
2274 = 53 cfs left for this st. WAIT FOR
77 cfs claimed NM10 ✓ SFS SFS + check
zipcode.

OK (SFS)
with
this
one

63-32514 - Meas. 85 cfs. 63-2294
lic. for same source + pod at 50 cfs.
85 meas - 50 = 35 cfs for this st. (NM10)
ZIP CODE ISSUE OK - WAIT FOR SFS'S FROM

ANDY NOT
WILL WITH
THIS
PIONEER
GET BACK
MEAS
10.6

63-32513 - Disallowed because info.
indicated that pump was increased
in 1983 + 63-2890 already provides
10 cfs for this st. Need new appl.
Whether Pioneer is interested enough to pursue
OK FOR SFS
to declined

SFS
for
language
same as
Settler's

63-161BU - See changed 500
Boise R. language from the Settler's
agreement to this what they want
for Pioneer?

ZIP CODE

BOR
SFS
should
take care
of their
w/ address
also

63-224 - Same as above.

63-294 - " " "

63-295 - " " "

63-225 - " " "

63-371 - " " "

SFS's
BOR agreed
to the
language.
See Nick's
email

63-21713 - ERO meas. 11.2 cfs +
that is what was recommended.
15 cfs claimed. [New measurements
show 17.9 cfs. Andy will check
w/ Pioneer to see if they want to
file an amended claim for after
of it. Andy will get back to me.

Andy will
get back about
amending.

Wally don
after arguing
I won

SFS
w/ notes

63-21731 - Also 8-12-08 status
conf. - We're OK w/ additional flow
+ wait NMID SFS's to put extra
on it. Old flow 64.5 new flow
76.6 claimed 100 gals OK to increase
w/o amended claim. Andy will talk
to Pioneer - put together SFS in meantime.

Shurte, Jan

From: Andy Waldera [AJW@moffatt.com]
Sent: Tuesday, February 03, 2009 9:05 AM
To: Shurte, Jan
Subject: RE: Pioneer ID Update

Jan,

Thank you for the e-mail. It looks accurate to me except for one entry...the Tlucek consolidated rights are 63-2529 and 9109, not 2429. Otherwise, I apologize for not having been able to make much progress on the other rights. You are waiting on info from me, and I still need to get it out of Pioneer. But 17 out of 28 subcases with SF5s isn't bad. I just need to keep on plugging away.

I spoke with Gail McGarry this morning and let her know that there are a few NMID/BOR matters hanging out there on a couple of rights, but that settlement language has been approved. The reason SF5s have not issued yet is because Pioneer has yet to close the loop on its own objections to the rights (2891, 2114, 5255).

Thanks for your help.

--Andy

Still have NMID language to go on these along with the rest.

From: Shurte, Jan [mailto:Jan.Shurte@idwr.idaho.gov]
Sent: Thursday, January 29, 2009 12:22 PM
To: Andy Waldera
Subject: FW: Pioneer ID Update

Hi Andy,

I thought I would forward this email to you in preparation for the status conferences on the 3rd and 10th of next month. If you have time would you look this over and let me know if the numbers for the SF5s are ok and if I have the correct information concerning the remaining rights. I left out the uncontested overlaps. Just let me know if I have overlooked a number or made a mistake on the status.

Thanks,
 Jan

From: Shurte, Jan
Sent: Wednesday, January 28, 2009 5:08 PM
To: Spencer, Nick; Williams, Ray
Cc: Shurte, Jan
Subject: Pioneer ID Update

Hi Nick and Ray,

Here's a little rundown on 2/3/09 and 2/10/09 Pioneer ID rights.

63-5199 & 5200 are set for 2/3/09 – I still need information from Andy Waldera on these as to measurements. No SF5s yet.

Friday we will be sending over Pioneer ID SF5's on the following rights – if we hand deliver them in the morning maybe we can mail them out that afternoon or Monday and then we can say they are in the mail for the status conference on the 3rd at least. Here goes:

2/3/2009

63-161BU
 63-224
 63-225
 63-294
 63-295
 63-371
 63-2275
 63-2276
 63-2294
 63-5219
 63-5237
~~63-21706~~
 63-21714
 63-21731
 63-21739
 63-32514
 63-32515

→ see note

63-2891 was rec as licensed (10 Cfs) and objection wanted 13 cfs. 63-32513 is a disallowed claim for the same pod, however pump was increased in 1983, and Dave's notes state that they should file a new application for the additionl .6 cfs (ERO measured 10.6 cfs and submitted it to us). No SF5 yet.

63-2114 – Claimed 8.64 cfs, licensed for 8.64 cfs and obj. wants 20 cfs. Pioneer filed late claim 63-32584 to cover the cfs over and above 63-2114. PID needs more info to us on pursuing more cfs since ERO measured 10.2 cfs. No SF5 yet.

63-5255 – Objected to quantity – no measurements submitted – Andy feels there was a measurement done and will get back to me. No SF5 yet.

63-21713 – Ero measured and we recommended 11.2 cfs – the claim was for 15 cfs. New springtime measurement was 17.9 cfs, so Andy is conferring with PID on amending claim or not. No SF5 yet.

63-2029 & 9109 are consolidated into the Tlucek/Tiegs/Pioneer AF objection and no SF5s are being done on those.

63-166A, 167A & 179A – This is the objection filed by Franklin and Mason Creek Ditch Co. and Pioneer where we recommended it to the Franklin and Mason Creek Ditch co. and disallowed Pioneer's. Had a conference and they needed to confer on possible language relating to Pioneer on the ditch companies rights or go to litigation. Status Conference is set 2/10/09.

Please review and let me know if I have left any numbers out.

Thanks,
 Jan

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2/3/2009

Shurte, Jan

From: Williams, Ray
Sent: Monday, February 09, 2009 8:11 AM
To: Shurte, Jan
Subject: RE: 63-21714 (Pioneer)

If you could fix the of to "or" and the remark, that would be great. If you can e-mail them, I'll get these out too. Thanks!

From: Shurte, Jan
Sent: Friday, February 06, 2009 4:03 PM
To: Williams, Ray
Subject: RE: 63-21714 (Pioneer)

Yes it should be **or** instead of "of". It is "or" on the email that was sent to me, so that is our error. Then, on 63-5219, yes the NMID remark should have been on there also. They did file an objection to the place of use too, but Andy Waldera dropped that. I am so glad you are proofreading these Ray, because to be honest with you another set of eyes is what we needed. Thanks so much! Jan

Ps – if you want us to fix the of to an or let me know.

From: Williams, Ray
Sent: Friday, February 06, 2009 2:58 PM
To: Shurte, Jan
Subject: RE: 63-21714 (Pioneer)

On the SF5s that have the following remark in the other provisions necessary:

"This water right shall not alter or abrogate any provision of contract executed by the United States **of** State law regarding Pioneer Irrigation District or Nampa & Merician Irrigation District rights and responsibilities to use and make available water developed in drains within their boundaries", should the "of" be "or"?

Also, on 63-5219, NMID also filed an objection. The only changes on the SF5 are to correct the zip code. Does that one need a remark?

Thanks!

From: Shurte, Jan
Sent: Friday, February 06, 2009 2:48 PM
To: Williams, Ray
Subject: RE: 63-21714 (Pioneer)

That's what should have been done on all of them in one group report – just on that issue. It was weird that everytime I spoke with Andy Waldera, who is a nice guy, he would always bring up that change in the zipcode. Must be pretty important stuff. Thanks Ray.

From: Williams, Ray
Sent: Friday, February 06, 2009 2:26 PM
To: Shurte, Jan
Subject: 63-21714 (Pioneer)

Jan,

For 63-21714, we didn't have to do an SF5. It looks like Ted issued his report (changing the zip code) and it went on to partial decree on 10/6/08. I hadn't realized that he fixed it. One less to have to worry about...

Thanks!

Shurte, Jan

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Thanks!

Ray

Shurte, Jan

From: Shurte, Jan
Sent: Thursday, January 29, 2009 12:22 PM
To: 'Andy Waldera'
Subject: FW: Pioneer ID Update

Hi Andy,

I thought I would forward this email to you in preparation for the status conferences on the 3rd and 10th of next month. If you have time would you look this over and let me know if the numbers for the SF5s are ok and if I have the correct information concerning the remaining rights. I left out the uncontested overlaps. Just let me know if I have overlooked a number or made a mistake on the status.

Thanks,
 Jan

From: Shurte, Jan
Sent: Wednesday, January 28, 2009 5:08 PM
To: Spencer, Nick; Williams, Ray
Cc: Shurte, Jan
Subject: Pioneer ID Update

Hi Nick and Ray,

Here's a little rundown on 2/3/09 and 2/10/09 Pioneer ID rights.

63-5199 & 5200 are set for 2/3/09 – I still need information from Andy Waldera on these as to measurements. No SF5s yet.

Friday we will be sending over Pioneer ID SF5's on the following rights – if we hand deliver them in the morning maybe we can mail them out that afternoon or Monday and then we can say they are in the mail for the status conference on the 3rd at least. Here goes:

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~~63-21706~~
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 63-32515

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63-2114 – Claimed 8.64 cfs, licensed for 8.64 cfs and obj. wants 20 cfs. Pioneer filed late claim 63-32584 to cover the

1/29/2009

Shurte, Jan

From: Shurte, Jan
Sent: Wednesday, January 28, 2009 5:13 PM
To: Spencer, Nick; Williams, Ray
Cc: Shurte, Jan
Subject: 63-21706

Oh yeah, by the way 63-21706 is all ok except for the holdup on the objection to the season of use remark for the Boise River. The objection wants it deleted and Nick's email states they need more time to negotiate with the Boise Project Board of Control. The priority date on this one is after all of the reservoirs, so they don't feel it is needed. No SF5 on it yet. I don't know why that was the subject of my first email and I left it out completely. Too much for this old brain. Have a good evening, Jan

See Notes

*Need OK from BOR & BPBC to
remove 504 language*

OK on

2/6/2009

Hi Nick and Ray,

Here's a little rundown on 2/3/09 and 2/10/09 Pioneer ID rights

63-5199 & 5200 are set for 2/3/09 – I still need information from Andy Waldera on these as to measurements. No SF5s yet.

Friday we will be sending over Pioneer ID SF5's on the following rights – if we hand deliver them in the morning maybe we can mail them out that afternoon or Monday and then we can say they are in the mail for the status conference: I know it's terrible and if we can't do it we can just say they are done and will be mailed Wednesday or something. Anyways here we go.

63-161 BU

63-224

63-225

63-294

63-295

63-371

63-2275

63-2276

63-2294

63-5219

63-5237

63-21714

63-21731- OK w/producer

63-21739

63-32514

63-32515

63-2891 was rec as licensed (10 Cfs) and objection wanted 13 cfs. 63-32513 is a disallowed claim for the same pod, however pump was increased in 1983, and Dave's notes state that they should file a new application for the additional 6 cfs (ERO measured 10.6 cfs and submitted it to us). No SF5 yet.

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63-5255 - Objected to quantity - no measurements submitted - Andy feels there was a measurement done and will get back to me. No SF5 yet. *Added POP & needs to find out when pop acts upon to* *CPS*

63-21713 – Ero measured and we recommended 11.2 cfs – the claim was for 15 cfs. New springtime measurement was 17.9 cfs; so Andy is conferring with PID on amending claim or not. No SF5 yet. *WILDER TO OBJECTION*

63-2929 & 9109 are consolidated into the Tlucek/Tiegs/Pioneer AF objection and no SF5s are being done on those.

63-166A, 167A & 179A – This is the objection filed by Franklin and Mason Creek Ditch Co. and Pioneer where we recommended it to the Franklin and Mason Creek Ditch co. and disallowed Pioneer's. Had a conference and they needed to confer on possible language relating to Pioneer on the ditch companies rights or go to litigation. Status Conference is set 2/10/09.

Please review and let me know if I have left any numbers out.

1/28/2009

Shurte, Jan

From: Shurte, Jan
Sent: Wednesday, January 28, 2009 5:13 PM
To: Spencer, Nick; Williams, Ray
Cc: Shurte, Jan
Subject: 63-21706

Oh yeah, by the way 63-21706 is all ok except for the holdup on the objection to the season of use remark for the Boise River. The objection wants it deleted and Nick's email states they need more time to negotiate with the Boise Project Board of Control. The priority date on this one is after all of the reservoirs, so they don't feel it is needed. No SF5 on it yet. I don't know why that was the subject of my first email and I left it out completely. Too much for this old brain. Have a good evening, Jan

1/28/2009

Shurte, Jan

From: Shurte, Jan
Sent: Wednesday, October 29, 2008 4:57 PM
To: Courtney, Andrea
Subject: RE: Hearings on Friday for Basin 63

Hi there,

Sorry I haven't responded sooner. I don't want you to worry about these tonight or tomorrow. —

First, 63-31937 – at the last status conference I told Bruce Smith and all that Lee had stated this water right is uncuttable. Lee said regardless of the priority date the Department puts on the right, the water district puts 1800 on their database in order for it not to be cut. He said that is the historical way it has always been done. Bruce stated that he wanted to talk with me about it and wanted another 60 days. The weird part is that his original objection is to the pod and he is willing to withdraw it now. Seems to me that he should withdraw that objection and we can still talk about the water right after that.

Second – Pioneer ID rights – Here is the following status of each per my meetings with Andy Waldera

63-2114 – Andy wants more time on this one to look at the back file water right to find some evidence of priority and flow for the late claim that is filed on this same source – 63-32584, so he wants to hold up on this one. Because of that I will not have this one ready for the fall late claim report. There's not much I can do about it.

63-2275, 2276, 2294, 5219, 5237, 21739, 32514 & 32515 – per our meeting 7-31 and follow up on 10-15 Lori and I are now working on the SF5's to submit.

5255 – Andy is going to check this one out for flow measurement from Dave Shaw and evidence of priority – this one was again discussed at our 10-15-08 meeting. He thinks Dave measured it, however, he did not give me that measurement on 7-31-08 and he did not have it at the 10-15-08 meeting either.

21731 – We are drafting an SF5 on this one, however, Andy want to talk with Pioneer about the flow – it still was not what was claimed when Dave Shaw measured it. Andy will get back to me.

63-32496 – uncontested overlap

63-32513 – Andy still needs to talk with Pioneer to make sure that they are ok with Dave Shaw's measurement being .6 cfs less than they claimed. He will get back to me. We are drafting the SF5 up on this one also in the meantime.

We went over the first bunch we looked at on 7-31-08 and I had not received enough information to start the SF5s on quite a few, so the 10-15-08 meeting confirmed the ones I spoke of above plus 63-21714 I am also doing an SF5 on. I am not sure when the status conference is for that one. Hope this helps with this bunch. Now I'm going to work on your next email. It may be first thing in the morning, if that's ok. Thanks for keeping up on this stuff – it helps me before the status conferences.

Jan

From: Courtney, Andrea
Sent: Wednesday, October 29, 2008 2:44 PM
To: Shurte, Jan
Subject: Hearings on Friday for Basin 63

4 63-2891 has a problem - Andy has to ask if 10 cfs OK - D.S. meas. 10.6 so diff is only .6.

Jan~

We've got a status conf at 10:30am for 63-31937 with Drainage Dist No. 2 and objector, the Boise City Canal (Bruce Smith). Last we knew you found Lee Cisco (playing golf, if I recall) and discussed uncuttables. You and Bruce were going to talk in the meantime, and Bruce was going to talk the matter over with the Board. Any update from that?

We've got some Pioneer Irri subcases at 11am (63-2114, -2275, -2276, -2294, -5219, -5237, -5255, -21731, -21739, -32496, -32513, -32514 & -32515) involving NMID & BOR. You were going to draft SF5s by Halloween, but the tracking sheet refers to a second case (-32584) in which a late claim is expected. The late claim doesn't show up on the SRBA docket or our internal profile search so maybe it has not been filed yet. Any word on these?

At least it's not the day of the hearings... I got my big ID Supreme Court brief out yesterday so I'll be back to normal prep shortly (i.e., I'll look at next week's stuff starting tomorrow).

Andrea

10-28-08 STATUS Conf.

Pioneer Aug. Dist. Rt. ✓ 10-28-08
Status conf. for 63-2529, 5199,
5200 & 9109 ✓

Inv. in
Orig. Doc.

~~5/10~~ 2 rts. not involved - 63-5199 &
63-5200 - AF amount - Set for
Status conference on Feb. 3rd at
10:00 AM.

Set separately because Andy needs
to give me information as to
my other notes on these 2. Then
we can do SF 5's.

Shurte, Jan

From: Courtney, Andrea
Sent: Tuesday, October 28, 2008 8:25 AM
To: Shurte, Jan
Subject: B63 status confs this morning

Jan~

I'm looking over part of the 9am group -- NMID & the State Fish & Game (-7879, -9194 & -32695). I recall we talked about these last month, and we made some headway. My notes are too cryptic for me to figure out what that headway was. Before this busy day starts would you mind giving me a call or replying so I can have my "ah ha, now I remember" moment?

Also, as to Pioneer Irrigation Dist's 63-5199, the tracking sheet says you were going to obtain flow measurement and have discussion with PID. Did that happen? It was my understanding that although PID originally objected to the volume inclusion, it would drop that obj because this right was based on B/U and not a license.

Similar question re: 63-5200-- They wanted an increase in quantity (had a vol obj but based on B/U) per their consultant. Any news on that one?

As to -3323 & -3324 Tlucek, the tracking sheet says you reviewed the POU and determined it did not need to be changed and that you were going to contact Scott. Have you had a chance to do that?

**Interesting to note, Renea pulled the 1987 license for 63-9109 Pioneer Irri District -- this subcase is included in the stack of vol objections by Scott. The license does have a volume reflected on it, 2449.2 af, the same volume as is on the director's report. Interesting. Wonder if the other licenses have the volume? I don't think Scott has a good argument with respect to this subcase.

Thanks.

Andrea

10-15-08 w/ Andy Walden

63-1166A, 167A + 179A (Objections against Franklin Ditch Co & Mason Ch Ditch Co. Files indicate to me that rec. to Franklin & Mason Ch. because 1883 agreement - see also new evidence by Franklin) + 1906 decreed. Have went with what was decreed + who it was decreed to. Have succeeded agreement? Now agreement appears to show transfer to

See notes

63-5199- Needs evid. of ^{flow rate} priority. Could need current HP, depth, etc. If I used 2-20" wells - need pump depth, hp, psi + can do theoretical on these. DNT did not have enough information to do theoretical. Or on evid. of priority. AF AMOUNT IS A SEPARATE ISSUE. No meas. 25. ^{See notes}

Obj: 8.0 cfs
POD desc
Other page wrong
See notes

63-5200 - cfs appears to be OK - Recommended 7.56 cfs + objection shows wanting 3.8 cfs - volume too wanted off also. POD objection - per Dave Shand or FRO it was 6PS'd in the NEST, 5.34. Meas. for 63-5199, however, none on wells in 5.12 in report. AF AMOUNT also. ~~conting~~

Consolidated

63-9109 - Shoulder remark - will remove if they want to. AF amount - consolidated case. Licensed 3/15 to 11/15 & shoulder remark give early & late 304.

NOT UP
on
10/25

63-2529 - AF only. Waiting for legal analysis.

~~63-21714 - Zip code only.~~

Talk about 63-5255 - Could not find evid. of priority or flow meas.

63-32496 - See Sandy's memo explaining the splits. no objection filed.

~~63-21714 - D/S Zip code issue~~
Ready for SFS.

(SFS)

NOTE:

63-5199 - 2007 meas. of 4.02 cfs -
Andy will send to me. Then,
change cfs & add foot amount.
2 wells - Horn & Post wells
need evidence. Will get back
to me.

63-5200 - OK to put the SENE & NENE,
J. 34 w/a remark that it is on the
line. Brandt well & Johnson Well.
Pioneer OK on cfs - Zipcode. Will
get back to me on AF amount off.
Whether they want to pursue or not.

63-9109 - Not much to do - In
consolidated case

* Ask about the subordination language
2nd sentence.

63-21206 - 1961 priority date -
junior to storage etc & would
be shut off if storage was filling.
Can we delete condition due to
the prior approp. doctrine.

Shurte, Jan

From: Andy Waldera [AJW@moffatt.com]
Sent: Monday, October 06, 2008 3:52 PM
To: Shurte, Jan
Cc: Debby Long
Subject: RE: Pioneer Irrigation District Objections

Jan,

Let's set a meeting at IDWR Western for October 15, 2008 at 10 AM...probably going until noon.

Let me know if this does not work for you.

Thanks,

Andy

From: Shurte, Jan [mailto:Jan.Shurte@idwr.idaho.gov]
Sent: Friday, October 03, 2008 4:55 PM
To: Andy Waldera
Subject: RE: Pioneer Irrigation District Objections

Hi Andy,

It looks like we have quite a few left to go through. I have 63-166A, 167A, 179A, 2529, 5199, 5200 & 9109 set for October 28th. I think it would be worth our while to meet also. I am available on October 15th or 16th all day. If these two are not ok, please let me know times you have. I have quite a few meetings between now and then along with corresponding documents to the Court. A meeting is a great idea though.

Thanks,
Jan

From: Andy Waldera [mailto:AJW@moffatt.com]
Sent: Tuesday, September 30, 2008 3:04 PM
To: Shurte, Jan; Spencer, Nick
Subject: Pioneer Irrigation District Objections

Jan,

I hope this e-mail finds you well.

I am writing in hopes that you and I can schedule a time where we can meet at your office in order to circle the wagons with respect to Pioneer's currently pending objections so that we can keep the resolution process moving along. We met previously regarding many of the rights, but there are still others that we have yet to more formally discuss. I think it would be worth our while to meet again like we did before so that we can continue tying up loose ends.

Please let me know what days and times over the next few weeks work for you, and I will get something set up once I compare your schedule with mine.

Thanks,

10/6/2008

Andy

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10/6/2008

Shurte, Jan

From: Shurte, Jan
Sent: Friday, October 03, 2008 4:55 PM
To: 'Andy Waldera'
Subject: RE: Pioneer Irrigation District Objections

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Sent: Tuesday, September 30, 2008 3:04 PM
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Subject: Pioneer Irrigation District Objections

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10/3/2008

Shurte, Jan

From: Spencer, Nick
Sent: Tuesday, September 30, 2008 3:30 PM
To: Shurte, Jan
Cc: Williams, Ray
Subject: 63-161BU, -224, -225, 294, -295, -371, and -21706 (Pioneer Irrigation District)

Hi Jan. At the status conference today Andy Waldera said Pioneer's objections to the first six listed above (save zip code) can be resolved through the inclusion of the same remark we put into the three Settler's right (63-231D and two others). The only other party to those six subcases is the Bureau of Reclamation. BOR is supposed to contact you to tell you that they are okay with that language. As soon as they do, you can prepare the SF-5s. - Call Jay M.

As for -21706, Andy Waldera said Pioneer is now ready to accept the 0.1cfs we recommended, so when we do an SF-5 in that one, that will be the quantity used. Andy couldn't remember if you and he had agreed on the POD objection. That objection is only that the POD is in Ada rather than Canyon County, so that should be easily fixable. However, since Andy needs more time to negotiate with the Boise Project Board of Control on their objection, we can't do an SF-5 for -21706 yet. However, the SM doesn't want -21706 to hold up the SF-5s on the first six, so you can do them as soon as BOR contacts you. NBS

OK | Season of use remark
for 1961 water right.

Remark same as 230M & 231D

21706 - OK to do.

NOTE: Status Conf. 12-9-08
Andy would like ⁵⁰⁴ remark removed
completely since it is subordinated
to the reservoir and the priority date
on this right is 1961 - later than the
last reservoir put in (Lucky Peak). However,
it is also on the list noted above wanting
to use the settlement remark from Settlers
ID decisions. Andy, Al Baker, Gail &
David Zerkert will meet to discuss if
remark is OK.

awaiting answer to 504

NOTES

7/31/08

- * Talk to Diana concerning zipcode
+ if we need to do any paperwork
+ if she has changed it.

63-2114-~~10~~ 63-32584 is a late
claim to cover the cfs over + above
the cfs on 63-2114. Also check our
file for evid. of priority for the 1910
priority date. At least 1.6 cfs could
be recommended. Dave meas. 10.2
cfs. Note: OK w/1910 priority - PID will pursue
more cfs based on backfile for 63-2114.

63-5255 - Look in other #'s listed
in Scott's letter of 2006 to see if
evidence of priority. Also need
flow measurement from Dave Shaw.

- * 63-32496 - Check splits for 63-8436
+ 44 cfs vs 11 cfs for classification.

Ones that have NMID objections
will handle d/sts - others will
be withdrawn. Judy will send
memo email.

63-129B - Canyon Co Water Co. - transfer
from South to North. Withdrawn on the record.

OK
J. Conner
63-2114
10/10/08

ANDY WILL
CHECK THIS ON
OUT 10/10/08

OBS.
WITHDRAWN

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-231D V1

1. 155 This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.
2. F06 THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 63-121, 63-122, 63-230M, 63-230L, 63-120H, 63-161AJ, 63-169A, 63-169C, 63-16532.
3. F01 WATER IS DELIVERED THROUGH THE SETTLERS CANAL
4. 135 The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.
5. C18 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.
6. K06 THIS RIGHT IS LIMITED TO THE IRRIGATION OF 13135 ACRES WITHIN THE BOUNDARY OF THE SETTLERS IRRIGATION DISTRICT.
7. S45 Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law with the agreement of all entities having rights in the reservoir system; provided that any such diversion of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.
8. DESIGNATED AS NO 122 IN THE STEWART DECREE AND THE BOISE RIVER WATER MASTERS RECORDS

Remarks:

Comments:

1. mcase 7/21/2004 POD
Comment: Correlated PODID 621427 from SpatialDataID 342579 to SpatialDataID 306185
2. mcase 7/21/2004 POD
Comment: Correlated PODID 621427 from SpatialDataID 342579 to SpatialDataID 306185
3. lharris 8/21/2007 Period & Purpose of Use remark
Comment: Period and Purpose of Use remark updated per agreement with Settlers Irrigation Dist.

Shurte, Jan

From: Shurte, Jan
Sent: Friday, August 22, 2008 3:22 PM
To: Spencer, Nick; Courtney, Andrea
Subject: RE: Tree Top

I had to look at this a bit and compare it to the language agreed upon for Settler's ID - see 63-230M, then compare it to the below Star Bridge remark. They did change it basically by stating that they could divert when the natural flow is available for diversion at their pt of diversion rather than when water is being released for flood control by the US from Lucky Peak, left out all the manual references and rather than saying it is subordinated to the reservoirs they stated that their use of the water prior to 4/1 and after 10/31 shall not interfere with storage in the reservoirs. I don't know how the BOR will feel about diverting when the natural flow is available vs. diverting only when flood water is available, maybe it's the same. The other changes say basically the same thing, just different language. As far as I am concerned, if the Bureau signs off on it then it's ok with us. The whole season of use remark on the Boise River came from meetings with the Bureau and Boise Project plus some other attorneys. That's my two bits. I guess you could run it by Dave Tuthill as he was directly involved in the language in the first place.

Jan

-----Original Message-----

From: Spencer, Nick
Sent: Friday, August 22, 2008 2:54 PM
To: Shurte, Jan; Courtney, Andrea
Subject: FW: Tree Top

I see nothing in this language that would give me any heartburn. Do you two see any problems with it? Whom else do you think we ought to shard it with? NBS

-----Original Message-----

From: Spencer, Nick
Sent: Friday, August 22, 2008 2:52 PM
To: 'Scott Campbell'
Subject: RE: Tree Top

I am in receipt of your proposed language and will share it with my client. NBS

-----Original Message-----

From: Scott Campbell [mailto:SLC@moffatt.com]
Sent: Friday, August 22, 2008 1:44 PM
To: Scott Campbell; 'apb@idahowaters.com'
Cc: McGarry, E. Gail (Business Fax); Spencer, Nick (Business Fax)
Subject: RE: Tree Top

Albert,

I am providing the language we tentatively agree upon to resolve the objection of the Boise Project Board of Control. This language would replace the language contained in the Director's Recommendations under Purpose of Use, Period of Use, and Quantity:

Diversion of irrigation under this water right prior to April 1 and after October 31 shall occur only when the natural flow in the Boise River below the Star Bridge in Township 04 North, Range 01 West, Section 18, NE1/4 of the SE1/4 of the SE1/4, Boise Meridian (approximate river mile 33.9) is sufficient for water to be available for diversion at the point of diversion described above, provided that any such use of this water right prior to April 1 and after October 31 shall not interfere with storage of water under water rights for Lake Lowell, Lucky Peak, Arrowrock, or Anderson Ranch Reservoirs.

Based upon my review of our e-mail exchanges and my letter to you of June 3, 2008, this language is acceptable to both of our clients. I believe Gail McGarry also accepted this language.

I am sending a copy of this message to Nick Spencer and Gail McGarry via facsimile. Please confirm receipt.

Thank you.

Scott L. Campbell
Moffatt Thomas
www.moffatt.com
slc@moffatt.com
(208) 345-2000

-----Original Message-----

From: Scott Campbell
Sent: Monday, August 18, 2008 9:43 AM
To: 'apb@idahowaters.com'
Subject: Re: Tree Top

Sure.

----- Original Message -----

From: Albert Barker <apb@idahowaters.com>
To: Scott Campbell
Cc: emcgarry@pn.usbr.gov <emcgarry@pn.usbr.gov>; Spencer, Nick
<Nick.Spencer@idwr.idaho.gov>
Sent: Sun Aug 17 14:13:19 2008
Subject: Tree Top

Scott-

In the status conference we reported that we had agreed on the season of use remark. I don't remember how we left preparation of the stipulation to resolve this issue. Since we just tweaked the remark you sent me in your letter of June 3, 2008, can you either circulate the stipulation or send the language to Nick to get that process started?

Albert P. Barker

Barker Rosholt & Simpson LLP

(208) 336-0700

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Shurte, Jan

From: Elizabeth McGarry [EMCGARRY@pn.usbr.gov]
Sent: Sunday, August 10, 2008 3:57 PM
To: Shurte, Jan; Spencer, Nick; Bryce Farris
Cc: Dan Steenson; David.Gehlert@usdoj.gov
Subject: RE: Settlement for Pioneer's Drain SRBA Claims

This language is fine with the United States for the cases listed in the email below.

Gail

E. Gail McGarry, P.E.
Program Manager, Water Rights and Acquisition
208-378-5306
Bureau of Reclamation
Pacific Northwest Region
1150 North Curtis Road, Suite 100
Boise, ID 83706-1234

>>> "Bryce Farris" <bryce@ringertlaw.com> 6/13/2008 11:12 AM >>>
Scott, Nick and Jan:

This e-mail is to follow up our conversation earlier this morning regarding the above-referenced matter. Nampa & Meridian Irrigation District and Pioneer Irrigation District have agreed to the following remark to be included in Pioneer's drain claims:

"This water right shall not alter or abrogate any provision of contract executed by the United States or State law regarding Pioneer Irrigation District's or Nampa & Meridian Irrigation District's rights and responsibilities to use and make available water developed in drains within their boundaries."

The water rights to which Nampa & Meridian has filed objections are as follows: 63-02114, 63-02275, 63-02276, 63-02294, 63-02891, 63-05219, 63-05237, 63-05255, 63-21731, 63-21739, 63-32514 and 63-32515.

For those rights that there is no other objection as to quantity, preparation of a SF5 would be appropriate. For those rights that there remains a quantity objection by Pioneer, I have reviewed the examples provided by Nick and I am agreeable to resolving Nampa & Meridian's objections now via a Stipulation to Resolve Objection.

Gail: I believe BOR has filed Responses in these sub-cases. Could you please weigh in on whether BOR has any objection to the resolution and language proposed in this e-mail?

Thanks, Bryce

Shurte, Jan

From: Andy Waldera [AJW@moffatt.com]
Sent: Friday, July 18, 2008 11:09 AM
To: Shurte, Jan
Subject: Pioneer Water Right Nos. for July 31 Meeting

Jan,

As promised, here is the list of water rights you and I will be going through when we meet on Thursday, July 31 at 1:30 PM at your office.

All Basin 63:

2294

2891

2114

2275

2276

5219

5237

5255

21739

32496

32514

32515

32513

161BU

224

225

294

295

371

21713

** uncontested overlap some questions*

Thanks,

Andy

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10/14/2008

Shurte, Jan

From: Bryce Farris [bryce@ringertlaw.com]
Sent: Friday, June 13, 2008 11:13 AM
To: Shurte, Jan; Spencer, Nick; Scott Campbell
Cc: emcgarry@pn.usbr.gov; Dan Steenson
Subject: RE: Settlement for Pioneer's Drain SRBA Claims

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Thanks, Bryce

→ language OK
 NMID
 2294
 32514

10/14/2008

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Cc: emcgarry@pn.usbr.gov; Dan Steenson
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Thanks, Bryce

→ language OK
 NMID
 2294
 32514

I have comments on all concerning the difference in measurement from Sept. to June. OK'd remeasurement concerning flow due to fall vs spring meas.

10/14/2008

Shurte, Jan

From: Elizabeth McGarry [EMCGARRY@pn.usbr.gov]
Sent: Sunday, August 10, 2008 3:57 PM
To: Shurte, Jan; Spencer, Nick; Bryce Farris
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Subject: RE: Settlement for Pioneer's Drain SRBA Claims

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Gail

E. Gail McGarry, P.E.
Program Manager, Water Rights and Acquisition
208-378-5306
Bureau of Reclamation
Pacific Northwest Region
1150 North Curtis Road, Suite 100
Boise, ID 83706-1234

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For those rights that there is no other objection as to quantity, preparation of a SF5 would be appropriate. For those rights that there remains a quantity objection by Pioneer, I have reviewed the examples provided by Nick and I am agreeable to resolving Nampa & Meridian's objections now via a Stipulation to Resolve Objection.

Gail: I believe BOR has filed Responses in these sub-cases. Could you please weigh in on whether BOR has any objection to the resolution and language proposed in this e-mail?

Thanks, Bryce



ATTEN

31633

4248A =

4256A

4256C

4256E

9212 - Kandler

Jarvis
WW
Comment
+
Crossing
Comment

161BU

224

225

294

295

321

2275 on way

2276 "

2294 "

5219 "

5237 "

21731 "

21739 "

32514 "

32515 "

5199

5200

2891

5255

32496

8FS OK

63-5200- OK - Will put SENE & NESE
2.34 w/a remark about being on
the line. Brandt/Johnson Well.
Pioneer OK on cfs & AF ~~amount~~
obj. will be withdrawn
Objection incorrect from beginning.
State of Idaho response only.

add remark
AKA BRANDT Well
+ Johnson Well

SFS OK
to start
now.

63-5199- Recd. response to request
for meas. on 9/2/09. Add pt.
of division in the SENE, S. 12, T. 3N,
R. 2W. Also raise division rate to
2.96 cfs per measurement of 7-25-07
L6 on 9/2/09. Add remark that
this is for the Korn & Post wells.
Zip cod. OK on amount for
this right. AF should be based on
the cfs amount $2.96 \times 1.28 \times 260 \text{ Sep}$
 $= 1526.5 \text{ afa.}$

63-166A, B } We're going to settle
167A, B } on language desc.
179A, C } Basically the P/D etc
could not be changed unless the
P/D was first notified. Then,
in talking w/ someone it appears that
all times when Mason Ch. & for
Franklin Ditch do not use their H₂O

> it goes on down Pioneer's ditch, so they want to add PLO's boundaries to the pts for Franklin + Mason Ch ? on negotiations

63-2891 - Rec. as licensed. ^{10 cfs} want 13. Cannot increase ~~to~~ it. ^{applied for} Still need evidence of priority back to 1953 that ~~they were diverting~~. .6 cfs cannot go on 63-32513 unless earlier evid. ^{app.} ^{could be filed.}

63-5255 - No meas. submitted yet. Andy felt there was one done. ^{Wants to add} more pops prior to 1957 - need more info?

63-2114 - Claimed 8.64 cfs - obj. wants 20. 63-32584 to cover cfs over & above 63-2114. ERO Meas. 10.2 cfs so OK to recommend 63-32584 for diff w/ evid of priority.

OK for
SF5
63-21706 - PLO OK with .1 cfs. We are OK with Ada Co. rather than Canyon + zip code. 504 obj. Andy wants 504 remark removed because this it is 1961 & is subordinated to all the remainder. Could do on SF5 if BIBC & BOR agree remark removable. Red wants same (504) as 230m of left on Del ^{monro} ^{in file}

Ready
for our
SFS

63-21713 - Meas. turned in for
17.2 cfs. Claim for 15 cfs + PID
OK with that. Paul Amington
withdrew objection & I received
copy of in July - didn't realize
all OK & go until now.

RECEIVED

0022-2720/07

DEPARTMENT OF
WATER RESOURCES

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

In Re SRBA

Subcase No. 63-230M

Case No. 39576

STANDARD FORM 5

STIPULATED ELEMENTS OF A WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached amended recommendation. The parties and IDWR further agree and stipulate that the digital depiction of the boundary for Settlers Irrigation District remains unchanged since the place of use element is not contested.

CLAIMANT(s)/OBJECTOR(s):

Settlers Irrigation District

OBJECTOR(s)

Boise Project Board of Control


Andrew J Waldera
attorney

9/17/77

Date _____


Albert P. Barker
attorney

9-28-07

Date _____

STANDARD FORM 5 - 63-230M

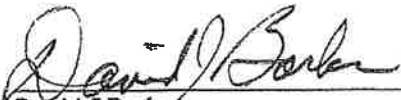
OBJECTOR(s):
USDI-BOR



David W. Gehlert
attorney

10/23/07
Date

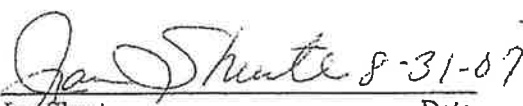
RESPONDENT(s):
State of Idaho



David J Barber
attorney

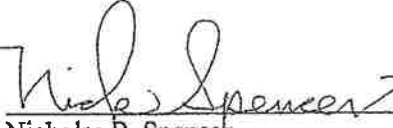
10/24/2007
Date

IDWR Concurrence:



Jan Shurte
Adjudication Supervisor

8-31-07
Date



Nicholas B. Spencer
Deputy Attorney General
Attorney for IDWR

7-9-5-07
Date

CERTIFICATE OF MAILING

I certify that on October 24, 2007, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

Andrew J Waldera
Moffatt Thomas
PO Box 829
Boise, ID 83701

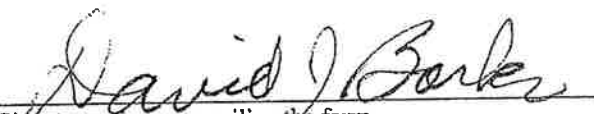
USDI-BOR
US Dept of Justice
Environment & Nat'l Resources
550 West Fort Street, MSC 033
Boise, ID 83724

Albert P Barker
1010 W Jefferson, Ste 102
PO Box 2139
Boise, ID 83701-2139

IDWR Repository
P.O. Box 83720
Boise, ID 83720

~~State of Idaho
Attorney General's Office
Natural Resources Div Chief
PO Box 44449
Boise, ID 83711-4449~~

Not Applicable



Signature of person mailing the form

SF5 Right No. 63-230M

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

RIGHT NUMBER: 63-230M

NAME AND ADDRESS: SETTLERS IRRIGATION DISTRICT
PO BOX 7571
BOISE ID 83707

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.780 CFS
175.500 AFY

This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 10/17/1884

POINT OF DIVERSION:

T03N R02E S9 SWNE Lot 7 Within ADA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
AESTHETIC STORAGE	01/01 12/31	5.00 AFY
IRRIGATION STORAGE	01/01 12/31	5.00 AFY
IRRIGATION	03/01 11/15	0.600 CFS 135.00 AFY
IRRIGATION FROM STORAGE	03/01 11/15	5.00 AFY
AESTHETIC	03/01 11/15	0.180 CFS 35.50 AFY
DIVERSION TO STORAGE	03/01 11/15	0.780 CFS

Diversion for irrigation, diversion for irrigation storage, or diversion for aesthetic storage under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law with the agreement of all entities having rights in the reservoir system; provided that any such diversion of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576. This period of use condition does not apply to irrigation storage or aesthetic storage.

[Handwritten signatures and initials]
NBS
DW
DR
2/B

SF5 Right No. 63-230M

SF5
Right No. 63-230M

PLACE OF USE: IRRIGATION in ADA County
T04N R01E S29 SESE 30.00
IRRIGATION STORAGE in ADA County
T04N R01E S29 SESE
IRRIGATION FROM STORAGE in ADA County
T04N R01E S29 SESE 30.00
AESTHETIC in ADA County
T04N R01E S29 SESE
AESTHETIC STORAGE in ADA County
T04N R01E S29 SESE
DIVERSION TO STORAGE in ADA County
T04N R01E S29 SESE

30 ACRES TOTAL

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 63-121, 63-122, 63-230L, 63-231D, 63-120H, 63-161AJ, 63-169A, 63-169C, 63-16532.

DESIGNATED AS NO 92 IN THE STEWART DECREE AND THE BOISE RIVER WATER MASTERS RECORDS

WATER IS DELIVERED THROUGH THE SETTLERS CANAL

29B

SF5
Right No. 63-230M

Shurte, Jan

From: Spencer, Nick
Sent: Thursday, October 25, 2007 5:12 PM
To: Shurte, Jan
Cc: Harvey, Becky
Subject: FW: Pioneer Irrigation District

*See obj. for
PID & S. 1.
Per Settlers Pt 2*

-----Original Message-----

From: Andy Waldera [mailto:AJW@moffatt.com]
Sent: Thursday, October 25, 2007 4:58 PM
To: Spencer, Nick
Subject: Re: Pioneer Irrigation District

Nick,

Thank you for the response, the time frame you propose should be fine.

I will be in touch.

--Andy

>>> "Spencer, Nick" <Nick.Spencer@idwr.idaho.gov> 10/24/2007 4:44 PM

>>>

Hi Andy. I have talked to Jan Shurte about preparing draft SF-5s in the Pioneer Irrigation District rights in Basin 63 Part 3 that have the same objections as were raised in the Settlers Irrigation District rights in Basin 63 Part 2. Jan said she can pull those files, look through them to figure out which ones need what revisions to which remark, and then do draft SF-5s for you, and the BOR I presume, to review. However, Jan is jammed up right now and is unlikely to be able to get to it until something after November 5th. Will that time frame work for you? NBS

NOTICE: This e-mail, including attachments, constitutes a confidential attorney-client communication. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this communication in error, do not read it. Please delete it from your system without copying it, and notify the sender by reply e-mail or by calling (208) 345-2000, so that our address record can be corrected. Thank you.

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*Spoke w/ Andy Waldera during remodel
as to those for Settlers in Part 2 &
he was going to make a list of
which ones needed which remarks &
get back to me.*

Shurte, Jan

From: Spencer, Nick
Sent: Thursday, October 25, 2007 5:12 PM
To: Shurte, Jan
Cc: Harvey, Becky
Subject: FW: Pioneer Irrigation District

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MEMORANDUM

TO: Pioneer Irrigation District Files

FROM: Dave Tuthill

DATE: December 10, 2006

RE: Updated Review of Pioneer ID Recommendations

Responses to Issues identified in my memorandum dated December 5, 2006:

- Irrigated Acreage Amount – Clarify
 - Do this based on information from Pioneer ID and Scott Campbell
- Remove combined condition on all
 - Do this when updating acreage information
- 371 -- 3rd POD should be in Canyon County as shown – correct other rights that show diversions from the Boise River to show that this diversion is in Canyon County
 - This has been corrected
- 5200 – need volume – use
 - Volume has been computed to be 3898.8 ($7.56 * 1.9835 * 260$), and has been added
- 21713 – increase to 11.2 cfs
 - This has been corrected
- 21731 – POD should be Sec 32, NWNE (see third amended claim)
 - This has been corrected
- 32493 – review this file to see if it really should be disallowed
 - Should be disallowed based on information provided to date

I have just re-reviewed the recommendations for Pioneer ID, and this is what I have found (all have a prefix of 63) in addition to the discussions we have already had:

2529 – I computed the volume to be 44,918.3 ($87.1 * 1.9835 * 260$).

5199 – The evidence of priority that we received pertains only to the POD in Sec. 12, and we have not received flow measurements. Thus, I am recommending 1 cfs and 50 AFA as a placeholder (it appears that the well has at least this capacity), pending the submittal of additional supporting information.

5255 -- We have not received flow measurements. Thus, I am recommending 1 cfs as a placeholder (it appears that the system has at least this capacity), pending the submittal of additional supporting information.

21706 -- We have not received flow measurements. Thus, I am recommending 0.1 cfs as a placeholder (it appears that the system has at least this capacity), pending the submittal of additional supporting information.

21731 -- We have not received flow measurements. Thus, I am recommending 10 cfs as a placeholder (it appears that the system has at least this capacity), pending the submittal of additional supporting information.

21739 -- We have not received flow measurements. Thus, I am recommending 2 cfs as a placeholder (it appears that the system has at least this capacity), pending the submittal of additional supporting information.

32514 -- The date of priority has been changed to 5/1/1935 based on the information that has been provided.



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

October 16, 2006

Mr. Alan Newbill, President
Pioneer Irrigation District
PO Box 426
Caldwell, ID 83605

Re: Evidence of Priority Date & Flow Measurement Data for
Claims Nos. 63-32513, 63-32514 & 63-32515

RESPONSE DEADLINE
OCTOBER 30, 2006

Dear Mr. Newbill:

The Notices of Claim to a Water Right (claims) identified with the numbers shown above your name have been filed in the Snake River Basin Adjudication (SRBA). The claims indicate your water usage is based on "Beneficial Use." Water rights of this type are established by the historic use of water, dating back to when water was first used for the purpose claimed, and are termed beneficial use rights. The date of first use, known as the priority date, has not been confirmed by a License, Decree or Permit. Since the priority date and historic use of a beneficial use right cannot be confirmed by field examination, **proof must be provided by the claimant** supporting the priority date claimed and the historic use of the water.

Also, please send flow measurement data for the claims to verify the capacity of your diversions.

Enclosed you will find copies of the claims and the pamphlet entitled "Evidence of Priority." The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement.

PLEASE NOTE: IDWR will recommend the SRBA Court decree the claim disallowed if no evidence of the priority date and of the historic use is submitted. It will be to your advantage to provide clear and convincing evidence. If you choose to submit statements from individuals as evidence, the statements should be in the form of notarized affidavits.

Please submit the required evidence supporting the water measurement data, the priority date and the historic use by the date shown above, referencing all documents with the corresponding claim number. If you have questions not covered by this letter or the enclosed pamphlet, please contact this office. Our toll free number is 1-800-451-4129.

Sincerely,

David R. Tuthill, Jr.
Administrator
Water Management Division

Enclosures
cc: Scott Campbell

Idaho Department of Water Resources Receipt

Receipt ID C082290

Payment Amount \$300.00 Date Received 9/29/2006 10:55:42 AM Region State Status
Payment Type Check Check Number 184431

Payer MOFFATT THOMAS

Comment 3 Adjudication Filing Fees Pioneer Irrigation District

Fee Detail

Amount	Description	Fund	FD	PCA	SO
\$300.00	ADJUDICATION FILING FEE	0337		41503	1155



Signature Line (Dept. Representative)

63-5199 + 5200 - Need 4/28/09 measurements.

63-32513 - Needs earlier evd. of priority for excess .6 cfs or file an App. for Permit for additional .6 cfs. See Scott's letter dated 10-30-06

63-2114 - Evd. of priority in proof of completion of works & 10.2 cfs meas. by Dave Shaw License for 8.64 cfs & meas. 10.2 cfs - diff. is 1.56 cfs with a 1910 priority date & same Bl.

63-32584 ←

63-5200 See notes - AF objection will be withdrawn - See notes for the rest.

63-21706 - Talk to Jail about taking out 50c due to priority & also Al Barker same thing. on 8-5

63-5255 - Pt of dis. prints 1987?

21713 - USD off. fund

5799 - Will get meas.

2891 - is of problem

32513

63-2114 - done

21713 is done - Wildes

32584 late claim done

5200 is done.