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Attorneys for A&B Irrigation District

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

IN THE MATTER OF THE PETITION FOR) **DOCKET NO. 37-03-11-1**
DELIVERY CALL OF A&B IRRIGATION)
DISTRICT FOR THE DELIVERY OF) **AFFIDAVIT OF TRAVIS L.**
GROUND WATER AND FOR THE) **THOMPSON IN SUPPORT OF A&B**
CREATION OF A GROUND WATER) **IRRIGATION DISTRICT'S**
MANAGEMENT AREA) **MOTION FOR SUMMARY**
) **JUDGMENT**
)

STATE OF IDAHO)
) ss.
County of Twin Falls)

TRAVIS L. THOMPSON, being first duly sworn upon oath, deposes and hereby states as follows:

1. I am an attorney representing A&B Irrigation District in the above-captioned matter. I am over the age of 18 and state the following based upon my own personal knowledge.

2. Attached hereto as **Exhibit A** is a true and correct copy of the license for A&B's water right #36-2080 issued by the Idaho Department of Water Resources on June 10, 1965.

3. Attached hereto as **Exhibit B** is a true and correct copy of the *Standard Form 5* and recommended water right for A&B's water right #36-2080, signed by A&B, the U.S. Bureau of Reclamation, and IDWR, and filed with the SRBA Court on July 29, 2002.

4. Attached hereto as **Exhibit C** is a true and correct copy of excerpts from IDWR's *Partial Agency Record* in this matter.

5. Attached hereto as **Exhibit D** is a true and correct copy of a memorandum entitled *Snake River Basin Water Right Adjudication*, (downloaded from IDWR's website at www.idwr.idaho.gov/water/srba/SRBA%20Court/main%20page.htm).

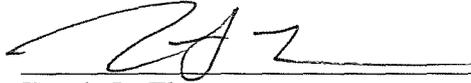
6. Attached hereto as **Exhibit E** is a true and correct copy of the *1994 Interim Legislative Committee Report on the Snake River Basin Adjudication*.

7. Attached hereto as **Exhibit F** is a true and correct copy of the SRBA Court's *Order on Motion to Enforce Order Granting State of Idaho's Motion for Interim Administration* (Subcase No. 92-00021; In Re: SRBA Case No. 39576, Fifth Jud. Dist., Twin Falls County).

8. Attached hereto as **Exhibit G** is a true and correct copy of excerpts from the depositions of IDWR staff Sean Vincent and Rick Raymondi and from the deposition of Greg Sullivan (Pocatello expert witness).

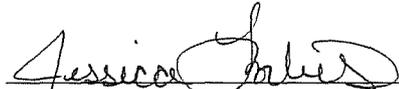
Further you affiant sayeth nought.

DATED this 5th day of October, 2008.



Travis L. Thompson

SUBSCRIBED AND SWORN to before me this 3rd day of October, 2008.



Notary Public for State of Idaho

Residing at Twin Falls, Idaho,

Commission Expires: 4/3/12

Exhibit

A

State of Idaho

License and Certificate of Water Right

Water License No. 20736 Priority Sept. 9, 1948 Amount 1100 c.f.s

THIS IS TO CERTIFY that UNITED STATES OF AMERICA, BUREAU OF RECLAMATION

of Boise, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated Sept. 9, 1948; that Permit No. 20736 was issued under said application; that Certificate of Completion of Works, with a carrying capacity of 1100 second feet, was issued thereunder on June 10th, 1965 showing that said works were completed on the 13th day of January, 1964; and that on the 13th day of January, 1964 U. S. of America, Bureau of Reclamation

of Boise, State of Idaho, made proof to the satisfaction of the State Reclamation Engineer of Idaho, of a right to the use of the waters of wells

a tributary of subterranean flow for the purpose of irrigation and domestic under Use Permit No. 20736 of the Department of Reclamation, and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume 13 of Licenses, at Page 8169, on the 10th day of June, 1965.

The right hereby confirmed dates from September 9, 1948.

The Point of Diversion is located see below in the 1/4, Sec. 1/4, Twp. , R. , B.M. County.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 1100 cubic feet per second.

Description and location of use:

Twp.	Range	Section	Forty-Acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
			177 wells in Township 7 South, Ranges 23, 24 & 25 East, B. M.; Township 8 South, Ranges 21, 22, 23 & 25 East, B. M. Township 9 South, Ranges 21, 22 and 23 East B. M.; Township 10 South, Ranges 21 and 22 East, B. M., all in the A & B Irrigation District, Northside Pumping Division, Minidoka Project, Idaho		
			62,604.3 acres in Townships 7, 8, 9 and 10 South, Ranges 21, 22, 23, 24 and 25 East, B. M., all within the boundaries of the A & B Irrigation District. North Side Pumping Division, Minidoka Project, Idaho		

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this 10th day of June, 1965.

Carl E. Tappan
State Reclamation Engineer.

MICROFILMED

State of Idaho

LICENSE AND CERTIFICATE
OF WATER RIGHT

Water License No. 20736

To U. S. of America, Bureau of
Reclamation, Boise, Idaho

Source of Supply subterranean

Jerome, Lincoln, Blaine County

Amount 1100 Sec. Ft.

Point of Diversion 177 wells in T. 7 S.,
R. 23, 24, 25 E., E. M., T. 8 S.,
R. 21, 22, 23, 24 & 25 E., E. M.,
T. 9 S., R. 21, 22, 23 E. T. 10 S.

Place of Use R. 21 and 22 E.

62,604.3 acres in T. 7, 8, 9 and
10 South, Ranges 21, 22, 23, 24
25 E., E. M., all within the boundaries
of the A & B. Irrigation District

Purpose irrigation & domestic

Date of Priority Sept. 9, 1948

Recorded June 10, 1965

in Book 13 of Licenses, Page 8169

MICROFILMED

Exhibit B

RECEIVED

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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.: 36-2080

Case No. 39576)

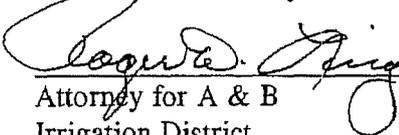
STANDARD FORM 5

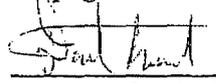
STIPULATED ELEMENTS OF A
WATER RIGHT

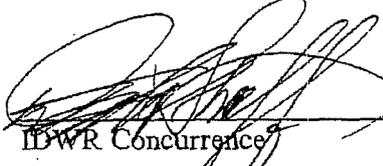
This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary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

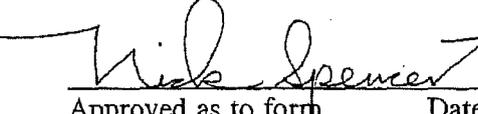
The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions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

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

 6/18/02
Attorney for A & B Date
Irrigation District

 6/25/02
Attorney for United States Date
Bureau of Reclamation

 6/24/02
IDWR Concurrence Date

 6-4-02
Approved as to form Date
Attorney for IDWR

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

RIGHT NUMBER: 36-2080
NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
REGIONAL DIRECTOR PN REGION
BUREAU OF RECLAMATION
1150 N CURTIS RD SUITE 100
BOISE ID 83706-1234

THE BENEFICIAL USE OF THE WATER REPRESENTED HEREBY IS FOR THE
LANDOWNERS WITHIN THE A & B IRRIGATION DISTRICT PURSUANT TO CONTRACT
NO. 14-06-100-2386, DATED FEBRUARY 9, 1962 (AS MAY BE SUPPLEMENTED OR
AMENDED) BETWEEN THE UNITED STATES OF AMERICA THROUGH THE U.S.
BUREAU OF RECLAMATION AND THE A & B IRRIGATION DISTRICT FOR IRRIGATION
AND OTHER PERMITTED PURPOSES AS AUTHORIZED BY THE ACT OF SEPTEMBER
30, 1950, CH. 1114, 64 STAT. 1083, OF THE NORTH SIDE PUMPING DIVISION, OF THE
MINIDOKA IRRIGATION PROJECT.

SOURCE: GROUND WATER TRIBUTARY:

QUANTITY: 1,100.000 CFS
250,417.20 AFY

THE RIGHTS LISTED BELOW ARE LIMITED TO A COMBINED TOTAL DIVERSION RATE
OF 1:00 CFS AND A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 266,744.8
ACRE FEET IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 36-2080,
36-15127A, 36-15127B, 36-15192, 36-15193A, 36-15193B, 36-15194A, 36-15194B,
36-15195A, 36-15195B, 36-15196A, 36-15196B.

PRIORITY DATE: 09/09/1948

POINT OF DIVERSION:
T07S R23E S34 NWSESW Lot 99 Within MINIDOKA County
T07S R23E S34 NWSESW Lot 99 Within MINIDOKA County
T07S R24E S22 NWSWSW Lot 96 Within MINIDOKA County
T07S R24E S22 NWNWSE Lot 98 Within MINIDOKA County
T07S R24E S22 NESESE Lot 97 Within MINIDOKA County
T07S R24E S23 NWSWNE Lot 99 Within MINIDOKA County
T07S R24E S26 NWSENE Lot 99 Within MINIDOKA County
T07S R24E S26 NENWSW Lot 94 Within MINIDOKA County
T07S R24E S28 NWSWNE Lot 98 Within MINIDOKA County
T07S R24E S28 NWSWNE Lot 98 Within MINIDOKA County
T07S R24E S30 SWNWSE Lot 99 Within MINIDOKA County
T07S R24E S30 SWNWSE Lot 99 Within MINIDOKA County
T07S R24E S31 NWSWNE Lot 99 Within MINIDOKA County
T07S R24E S32 SWSENE Lot 97 Within MINIDOKA County
T07S R24E S32 SWSENE Lot 97 Within MINIDOKA County
T07S R24E S33 SENWSE Lot 98 Within MINIDOKA County
T07S R24E S33 SENWSE Lot 98 Within MINIDOKA County
T07S R24E S34 SWSENW Lot 98 Within MINIDOKA County

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

T07S R24E S35 SWSWSE Lot 98 Within MINIDOKA County
T07S R24E S35 SWSWSE Lot 98 Within MINIDOKA County
T07S R25E S27 NESESW Lot 99 Within MINIDOKA County
T07S R25E S29 NENESW Lot 99 Within MINIDOKA County
T07S R25E S30 NWNESW Lot 98 Within MINIDOKA County
T07S R25E S31 NENESW Lot 96 Within MINIDOKA County
T07S R25E S32 NWNESW Lot 96 Within MINIDOKA County
T07S R25E S33 NESWNW Lot 99 Within MINIDOKA County
T07S R25E S34 SENESW Lot 97 Within MINIDOKA County
T08S R21E S22 NWNESW Lot 98 Within JEROME County
T08S R21E S24 NWSSENW Lot 97 Within JEROME County
T08S R21E S26 NWSENE Lot 96 Within JEROME County
T08S R21E S26 NWSENE Lot 96 Within JEROME County
T08S R21E S35 SENENE Lot 93 Within JEROME County
T08S R21E S35 SWSWSW Lot 99 Within JEROME County
T08S R21E S35 SESESE Lot 97 Within JEROME County
T08S R21E S35 SESESE Lot 97 Within JEROME County
T08S R22E S30 SWNWSW Lot 96 Within MINIDOKA County
T08S R22E S35 SWNWNE Lot 99 Within MINIDOKA County
T08S R22E S35 SWSWSE Lot 98 Within MINIDOKA County
T08S R22E S35 SWSWSE Lot 98 Within MINIDOKA County
T08S R23E S1 NENWNE Lot 99 Within MINIDOKA County
T08S R23E S1 NENWNE Lot 99 Within MINIDOKA County
T08S R23E S1 SWSWSW Lot 94 Within MINIDOKA County
T08S R23E S2 SENESW Lot 96 Within MINIDOKA County
T08S R23E S4 SWSWSW Lot 95 Within MINIDOKA County
T08S R23E S4 SWSWSW Lot 95 Within MINIDOKA County
T08S R23E S5 NESENE Lot 93 Within MINIDOKA County
T08S R23E S5 NESENE Lot 93 Within MINIDOKA County
T08S R23E S8 NENESE Lot 97 Within MINIDOKA County
T08S R23E S10 SWSENE Lot 92 Within MINIDOKA County
T08S R23E S10 NESWSW Lot 96 Within MINIDOKA County
T08S R23E S12 SWSWNE Lot 96 Within MINIDOKA County
T08S R23E S12 SWSWNE Lot 96 Within MINIDOKA County
T08S R23E S12 SESESW Lot 94 Within MINIDOKA County
T08S R23E S12 SESESW Lot 94 Within MINIDOKA County
T08S R23E S14 NWNWNW Lot 87 Within MINIDOKA County
T08S R23E S14 NWNWNW Lot 87 Within MINIDOKA County
T08S R23E S15 SENENW Lot 99 Within MINIDOKA County
T08S R23E S15 SENENW Lot 99 Within MINIDOKA County
T08S R23E S15 SESESE Lot 94 Within MINIDOKA County
T08S R23E S17 NWNENW Lot 96 Within MINIDOKA County
T08S R23E S17 NESESE Lot 97 Within MINIDOKA County


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

T08S R23E S17 NESESE Lot 97 Within MINIDOKA County
T08S R23E S19 NWSWSE Lot 99 Within MINIDOKA County
T08S R23E S19 NWSWSE Lot 99 Within MINIDOKA County
T08S R23E S21 SWSENE Lot 99 Within MINIDOKA County
T08S R23E S22 SWSESW Lot 97 Within MINIDOKA County
T08S R23E S23 SWNWSW Lot 95 Within MINIDOKA County
T08S R23E S23 SWNWSW Lot 95 Within MINIDOKA County
T08S R23E S24 NENWNW Lot 98 Within MINIDOKA County
T08S R23E S24 NESESW Lot 95 Within MINIDOKA County
T08S R23E S24 NESESW Lot 95 Within MINIDOKA County
T08S R23E S25 NWSSENW Lot 97 Within MINIDOKA County
T08S R23E S26 NWNWSE Lot 94 Within MINIDOKA County
T08S R23E S27 NENENE Lot 99 Within MINIDOKA County
T08S R23E S27 SWSSENW Lot 98 Within MINIDOKA County
T08S R23E S27 SWSESW Lot 93 Within MINIDOKA County
T08S R23E S28 SWNESW Lot 95 Within MINIDOKA County
T08S R23E S28 NWSWSW Lot 93 Within MINIDOKA County
T08S R23E S28 NWSWSW Lot 93 Within MINIDOKA County
T08S R23E S29 SESENE Lot 91 Within MINIDOKA County
T08S R23E S29 SESENE Lot 91 Within MINIDOKA County
T08S R23E S31 SESESE Lot 95 Within MINIDOKA County
T08S R23E S34 NWSSESW Lot 97 Within MINIDOKA County
T08S R23E S35 SENWNW Lot 90 Within MINIDOKA County
T08S R23E S35 NESWSW Lot 96 Within MINIDOKA County
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T08S R23E S35 SESESE Lot 95 Within MINIDOKA County
T08S R24E S1 SESENE Lot 98 Within MINIDOKA County
T08S R24E S2 NWNENE Lot 93 Within MINIDOKA County
T08S R24E S3 SWSENE Lot 99 Within MINIDOKA County
T08S R24E S3 SWSENE Lot 99 Within MINIDOKA County
T08S R24E S4 SWSWNE Lot 97 Within MINIDOKA County
T08S R24E S4 NESWSW Lot 99 Within MINIDOKA County
T08S R24E S4 NESWSW Lot 99 Within MINIDOKA County
T08S R24E S6 SENENW Lot 94 Within MINIDOKA County
T08S R24E S6 NWNWSW Lot 98 Within MINIDOKA County
T08S R24E S6 SESESE Lot 91 Within MINIDOKA County
T08S R24E S7 NESENW Lot 95 Within MINIDOKA County
T08S R24E S8 NESENE Lot 97 Within MINIDOKA County
T08S R24E S10 NWSWNE Lot 98 Within MINIDOKA County
T08S R24E S10 SWSWNW Lot 92 Within MINIDOKA County
T08S R24E S10 SESESW Lot 95 Within MINIDOKA County
T08S R24E S11 SWNENW Lot 98 Within MINIDOKA County
T08S R24E S11 SWNENW Lot 98 Within MINIDOKA County

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

T08S R24E S11 NWNWSE Lot 95 Within MINIDOKA County
T08S R24E S12 NENWNE Lot 97 Within MINIDOKA County
T08S R24E S13 NWNWNE Lot 90 Within MINIDOKA County
T08S R24E S13 NWNWNE Lot 90 Within MINIDOKA County
T08S R24E S14 SWSESW Lot 95 Within MINIDOKA County
T08S R24E S15 SESWNW Lot 97 Within MINIDOKA County
T08S R24E S18 NESWNW Lot 96 Within MINIDOKA County
T08S R24E S21 NENWNE Lot 95 Within MINIDOKA County
T08S R24E S21 NESWSW Lot 97 Within MINIDOKA County
T08S R24E S22 SWNESE Lot 96 Within MINIDOKA County
T08S R24E S23 SESESW Lot 95 Within MINIDOKA County
T08S R24E S26 SESWNE Lot 98 Within MINIDOKA County
T08S R24E S29 SENWSE Lot 93 Within MINIDOKA County
T08S R24E S30 SWNENW Lot 92 Within MINIDOKA County
T08S R24E S30 SENWSE Lot 99 Within MINIDOKA County
T08S R24E S31 SWSESW Lot 98 Within MINIDOKA County
T08S R24E S31 SWSESW Lot 98 Within MINIDOKA County
T08S R25E S3 SENENW Lot 99 Within MINIDOKA County
T08S R25E S3 SENENW Lot 99 Within MINIDOKA County
T08S R25E S3 NWNWNW Lot 96 Within MINIDOKA County
T08S R25E S3 NWNWNW Lot 96 Within MINIDOKA County
T08S R25E S3 NENESE Lot 98 Within MINIDOKA County
T08S R25E S5 NWNENE Lot 95 Within MINIDOKA County
T08S R25E S5 NWNENE Lot 95 Within MINIDOKA County
T08S R25E S6 NENESE Lot 98 Within MINIDOKA County
T08S R25E S6 NENESE Lot 98 Within MINIDOKA County
T08S R25E S11 NWSWSE Lot 93 Within MINIDOKA County
T08S R25E S12 NWNWNW Lot 99 Within MINIDOKA County
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T08S R25E S13 NWSWSW Lot 99 Within MINIDOKA County
T08S R25E S14 SWNESW Lot 97 Within MINIDOKA County
T08S R25E S15 NWSWSW Lot 94 Within MINIDOKA County
T08S R25E S15 NWSWSW Lot 94 Within MINIDOKA County
T08S R25E S17 NWNENE Lot 95 Within MINIDOKA County
T08S R25E S19 NENWNE Lot 90 Within MINIDOKA County
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T08S R25E S19 SESWNW Lot 94 Within MINIDOKA County
T08S R25E S19 SESWNW Lot 94 Within MINIDOKA County
T08S R25E S21 NESESW Lot 96 Within MINIDOKA County
T08S R25E S23 NWNWNW Lot 91 Within MINIDOKA County
T08S R25E S23 NWNWNW Lot 91 Within MINIDOKA County
T08S R25E S24 SENWNW Lot 95 Within MINIDOKA County
T09S R21E S1 NWNESW Lot 99 Within JEROME County

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

T09S R21E S3 NENSW Lot 98 Within JEROME County
T09S R21E S3 SESESW Lot 91 Within JEROME County
T09S R21E S3 NWNESE Lot 95 Within JEROME County
T09S R22E S3 NWSESE Lot 99 Within MINIDOKA County
T09S R22E S3 NWSESE Lot 99 Within MINIDOKA County
T09S R22E S3 NWSESE Lot 99 Within MINIDOKA County
T09S R22E S7 SENENE Lot 97 Within MINIDOKA County
T09S R22E S7 NESENE Lot 97 Within MINIDOKA County
T09S R22E S9 SESWNW Lot 98 Within MINIDOKA County
T09S R22E S9 NENESW Lot 96 Within MINIDOKA County
T09S R22E S9 NENESW Lot 96 Within MINIDOKA County
T09S R22E S10 NESWNE Lot 99 Within MINIDOKA County
T09S R22E S11 NWNWNE Lot 94 Within MINIDOKA County
T09S R22E S11 SENENW Lot 94 Within MINIDOKA County
T09S R22E S15 NESWNE Lot 97 Within MINIDOKA County
T09S R22E S15 SWSWNE Lot 99 Within MINIDOKA County
T09S R22E S18 NESWSE Lot 97 Within MINIDOKA County
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T09S R22E S22 SESWNE Lot 99 Within MINIDOKA County
T09S R22E S28 NESESE Lot 98 Within MINIDOKA County
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T09S R22E S33 SENESE Lot 98 Within MINIDOKA County
T09S R22E S33 SENESE Lot 98 Within MINIDOKA County
T09S R23E S2 NESENE Lot 96 Within MINIDOKA County
T09S R23E S3 NESENE Lot 95 Within MINIDOKA County
T09S R23E S3 NENWSW Lot 99 Within MINIDOKA County
T09S R23E S6 SESENE Lot 99 Within MINIDOKA County
T09S R23E S6 NWSWSE Lot 92 Within MINIDOKA County
T10S R21E S2 SWNWSW Lot 95 Within JEROME County
T10S R22E S3 SENWSW Lot 91 Within MINIDOKA County

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

THE FOLLOWING CONVENTION IS USED TO CONVERT THE GOVERNMENT LOTS LISTED IN THE ABOVE POINTS OF DIVERSION TO THE OFFICIAL US GOVERNMENT TRACT DESIGNATION: LOT 99 = TRACT A, LOT 98 = TRACT B, LOT 97 = TRACT C, LOT 96 = TRACT D, LOT 95 = TRACT E, LOT 94 = TRACT F, LOT 93 = TRACT G, LOT 92 = TRACT H, LOT 91 = TRACT J, LOT 90 = TRACT K, LOT 89 = TRACT L, LOT 88 = TRACT M, LOT 87 = TRACT N, LOT 86 = TRACT O, LOT 85 = TRACT P, LOT 84 = TRACT Q, LOT 83 = TRACT R, LOT 82 = TRACT S.

THE FOLLOWING POINTS OF DIVERSION EACH HAVE TWO WELLS:
T07S, R23E, SEC 34, NWSESW - MINIDOKA. T07S, R24E, SEC 28, NWSWNE; SEC 30, SWNWSE; SEC 32, SWSENE; SEC 33, SENWSE; SEC 35, SWSWSE - MINIDOKA. T08S, R21E, SEC 26, NWSENE; SEC 35, SESESE - JEROME. T08S, R22E, SEC 35, SWSWSE - MINIDOKA. T08S, R23E, SEC 01, NENWNE; SEC 04, SWSWSW; SEC 05, NESENE; SEC 12, SWSWNE; SEC 12, SESESW; SEC 14, NWNWNW; SEC 15, SENENW; SEC 17, NESESE; SEC 19, NWSWSE; SEC 23, SWNWSW; SEC 24, NESESW; SEC 28, NWSWSW; SEC 29, SESENE - MINIDOKA. T08S, R24E, SEC 03, SWSENE; SEC 04, NESWSW; SEC 11, SWNENW; SEC 13, NWNWNE; SEC 31, SWSWSE - MINIDOKA. T08S, R25E, SEC 03, SENENW; SEC 03, NWNWNW; SEC 05, NWNENE; SEC 06, NENESE; SEC 12, NWNWNW; SEC 15, NWSWSW; SEC 19, NENWNE; SEC 19, SESWNW; SEC 23, NWNWNW - MINIDOKA. T09S, R22E, SEC 9, NENESW; SEC 18, NESWSE; SEC 33, SENESE - MINIDOKA.

THE FOLLOWING POINT OF DIVERSION HAS THREE WELLS:
T09S, R22E, SEC 03, NWSESE - MINIDOKA.

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PURPOSE AND PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	1,100.000 CFS 250,417.20 AFY

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 15 AND MAY CONTINUE TO AS LATE AS NOVEMBER 15, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 1 AND AFTER OCTOBER 31 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE:

PLACE OF USE WITHIN THE BOUNDARY OF A & B IRRIGATION DISTRICT SERVICE AREA, PURSUANT TO SECTION 43-323, IDAHO CODE.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 62,604.3 ACRES WITHIN THE A & B IRRIGATION DISTRICT BOUNDARY IN A SINGLE IRRIGATION SEASON.

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

THE RIGHTS LISTED BELOW ARE LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 66,686.2 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 36-2080, 36-15127A, 36-15127B, 36-15192, 36-15193A, 36-15193B, 36-15194A, 36-15194B, 36-15195A, 36-15195B, 36-15196A, 36-15196B.

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 - License

THE FOLLOWING RIGHTS ARE DIVERTED THROUGH POINTS OF DIVERSION DESCRIBED ABOVE: 36-2080, 36-15127A, 36-15127B, 36-15192, 36-15193A, 36-15193B, 36-15194A, 36-15194B, 36-15195A, 36-15195B, 36-15196A, 36-15196B.

RELIFT DRAIN PUMPS USED WITHIN THE BOUNDARY OF THE DISTRICT FOR REUSE OF RETURN FLOW.

RIGHT NOS. 36-15127B, 36-15193B, 36-15194B, 36-15195B AND 36-15196B ARE ENLARGEMENTS OF THIS RIGHT PURSUANT TO SECTION 42-1426, IDAHO CODE.

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NBS
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D

Exhibit C

A&B 3270 through 3275

T07S R24E S35 SWSWSE Lot 98 Within MINIDOKA County
T07S R24E S35 SWSWSE Lot 98 Within MINIDOKA County
T07S R25E S27 NESESW Lot 99 Within MINIDOKA County
T07S R25E S29 NENESW Lot 99 Within MINIDOKA County
T07S R25E S30 NWNESW Lot 98 Within MINIDOKA County
T07S R25E S31 NENESW Lot 96 Within MINIDOKA County
T07S R25E S32 NWNESW Lot 96 Within MINIDOKA County
T07S R25E S33 NESWNW Lot 99 Within MINIDOKA County
T07S R25E S34 SENESW Lot 97 Within MINIDOKA County
T08S R21E S22 NWNESW Lot 98 Within JEROME County
T08S R21E S24 NWSWSE Lot 97 Within JEROME County
T08S R21E S26 NWSWSE Lot 96 Within JEROME County
T08S R21E S26 NWSWSE Lot 96 Within JEROME County
T08S R21E S35 SENENE Lot 93 Within JEROME County
T08S R21E S35 SWSWSW Lot 99 Within JEROME County
T08S R21E S35 SESESE Lot 97 Within JEROME County
T08S R21E S35 SESESE Lot 97 Within JEROME County
T08S R22E S30 SWNWSW Lot 96 Within MINIDOKA County
T08S R22E S35 SWNWSW Lot 99 Within MINIDOKA County
T08S R22E S35 SWSWSE Lot 98 Within MINIDOKA County
T08S R22E S35 SWSWSE Lot 98 Within MINIDOKA County
T08S R23E S1 NENWNE Lot 99 Within MINIDOKA County
T08S R23E S1 NENWNE Lot 99 Within MINIDOKA County
T08S R23E S1 SWSWSW Lot 94 Within MINIDOKA County
T08S R23E S2 SENESW Lot 96 Within MINIDOKA County
T08S R23E S4 SWSWSW Lot 95 Within MINIDOKA County
T08S R23E S4 SWSWSW Lot 95 Within MINIDOKA County
T08S R23E S5 NESENE Lot 93 Within MINIDOKA County
T08S R23E S5 NESENE Lot 93 Within MINIDOKA County
T08S R23E S8 NENESE Lot 97 Within MINIDOKA County
T08S R23E S10 SWSENE Lot 92 Within MINIDOKA County
T08S R23E S10 NESWSW Lot 96 Within MINIDOKA County
T08S R23E S12 SWSWNE Lot 96 Within MINIDOKA County
T08S R23E S12 SWSWNE Lot 96 Within MINIDOKA County
T08S R23E S12 SESESW Lot 94 Within MINIDOKA County
T08S R23E S12 SESESW Lot 94 Within MINIDOKA County
T08S R23E S14 NWNWNW Lot 87 Within MINIDOKA County
T08S R23E S14 NWNWNW Lot 87 Within MINIDOKA County
T08S R23E S15 SENENW Lot 99 Within MINIDOKA County
T08S R23E S15 SENENW Lot 99 Within MINIDOKA County
T08S R23E S15 SESESE Lot 94 Within MINIDOKA County
T08S R23E S17 NWNENW Lot 96 Within MINIDOKA County
T08S R23E S17 NESESE Lot 97 Within MINIDOKA County
T08S R23E S17 NESESE Lot 97 Within MINIDOKA County
T08S R23E S19 NWSWSE Lot 99 Within MINIDOKA County
T08S R23E S19 NWSWSE Lot 99 Within MINIDOKA County
T08S R23E S21 SWSENE Lot 99 Within MINIDOKA County
T08S R23E S22 SWSESW Lot 97 Within MINIDOKA County
T08S R23E S23 SWNWSW Lot 95 Within MINIDOKA County

A&B 3271

T08S R23E S23 SWNWSW Lot 93 Within MINIDOKA County
T08S R23E S24 NENWNW Lot 98 Within MINIDOKA County
T08S R23E S24 NESESW Lot 95 Within MINIDOKA County
T08S R23E S24 NESESW Lot 95 Within MINIDOKA County
T08S R23E S25 NWSSENW Lot 97 Within MINIDOKA County
T08S R23E S26 NWNWSE Lot 94 Within MINIDOKA County
T08S R23E S27 NENENE Lot 99 Within MINIDOKA County
T08S R23E S27 SWSSENW Lot 98 Within MINIDOKA County
T08S R23E S27 SWSESW Lot 93 Within MINIDOKA County
T08S R23E S28 SWNESW Lot 95 Within MINIDOKA County
T08S R23E S28 NWSWSW Lot 93 Within MINIDOKA County
T08S R23E S28 NWSWSW Lot 93 Within MINIDOKA County
T08S R23E S29 SESENE Lot 91 Within MINIDOKA County
T08S R23E S29 SESENE Lot 91 Within MINIDOKA County
T08S R23E S31 SESENE Lot 95 Within MINIDOKA County
T08S R23E S34 NWSSESW Lot 97 Within MINIDOKA County
T08S R23E S35 SENWNW Lot 90 Within MINIDOKA County
T08S R23E S35 NESWSW Lot 96 Within MINIDOKA County
T08S R23E S35 SENWSE Lot 98 Within MINIDOKA County
T08S R23E S35 SESESE Lot 95 Within MINIDOKA County
T08S R24E S1 SESENE Lot 98 Within MINIDOKA County
T08S R24E S2 NWNENE Lot 93 Within MINIDOKA County
T08S R24E S3 SWSENE Lot 99 Within MINIDOKA County
T08S R24E S3 SWSENE Lot 99 Within MINIDOKA County
T08S R24E S4 SWSWNE Lot 97 Within MINIDOKA County
T08S R24E S4 NESWSW Lot 99 Within MINIDOKA County
T08S R24E S4 NESWSW Lot 99 Within MINIDOKA County
T08S R24E S6 SENENW Lot 94 Within MINIDOKA County
T08S R24E S6 NWNWSW Lot 98 Within MINIDOKA County
T08S R24E S6 SESENE Lot 91 Within MINIDOKA County
T08S R24E S7 NESENE Lot 93 Within MINIDOKA County
T08S R24E S8 NESENE Lot 97 Within MINIDOKA County
T08S R24E S10 NWSWNE Lot 98 Within MINIDOKA County
T08S R24E S10 SWSWNW Lot 92 Within MINIDOKA County
T08S R24E S10 SESESW Lot 95 Within MINIDOKA County
T08S R24E S11 SWNENW Lot 98 Within MINIDOKA County
T08S R24E S11 SWNENW Lot 98 Within MINIDOKA County
T08S R24E S11 NWNWSE Lot 95 Within MINIDOKA County
T08S R24E S12 NENWNE Lot 97 Within MINIDOKA County
T08S R24E S13 NWNWNE Lot 90 Within MINIDOKA County
T08S R24E S13 NWNWNE Lot 90 Within MINIDOKA County
T08S R24E S14 SWSESW Lot 95 Within MINIDOKA County
T08S R24E S15 SESWNW Lot 97 Within MINIDOKA County
T08S R24E S18 NESWNW Lot 96 Within MINIDOKA County
T08S R24E S21 NENWNE Lot 95 Within MINIDOKA County
T08S R24E S21 NESWSW Lot 97 Within MINIDOKA County
T08S R24E S22 SWNESE Lot 96 Within MINIDOKA County
T08S R24E S23 SESESW Lot 95 Within MINIDOKA County
T08S R24E S26 SESWNE Lot 98 Within MINIDOKA County
T08S R24E S29 SENWSE Lot 93 Within MINIDOKA County

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T08S R24E S30 SWNENW Lot 92 Within MINIDOKA County
T08S R24E S30 SENWSE Lot 99 Within MINIDOKA County
T08S R24E S31 SWSESW Lot 98 Within MINIDOKA County
T08S R24E S31 SWSESW Lot 98 Within MINIDOKA County
T08S R25E S3 SENENW Lot 99 Within MINIDOKA County
T08S R25E S3 SENENW Lot 99 Within MINIDOKA County
T08S R25E S3 NWNWNW Lot 96 Within MINIDOKA County
T08S R25E S3 NWNWNW Lot 96 Within MINIDOKA County
T08S R25E S3 NENESE Lot 98 Within MINIDOKA County
T08S R25E S5 NWNENE Lot 95 Within MINIDOKA County
T08S R25E S5 NWNENE Lot 95 Within MINIDOKA County
T08S R25E S6 NENESE Lot 98 Within MINIDOKA County
T08S R25E S6 NENESE Lot 98 Within MINIDOKA County
T08S R25E S11 NWSWSE Lot 93 Within MINIDOKA County
T08S R25E S12 NWNWNW Lot 99 Within MINIDOKA County
T08S R25E S12 NWNWNW Lot 99 Within MINIDOKA County
T08S R25E S13 NWSWSW Lot 99 Within MINIDOKA County
T08S R25E S14 SWNESW Lot 97 Within MINIDOKA County
T08S R25E S15 NWSWSW Lot 94 Within MINIDOKA County
T08S R25E S15 NWSWSW Lot 94 Within MINIDOKA County
T08S R25E S17 NWNENE Lot 95 Within MINIDOKA County
T08S R25E S19 NENWNE Lot 90 Within MINIDOKA County
T08S R25E S19 NENWNE Lot 90 Within MINIDOKA County
T08S R25E S19 SESWNW Lot 94 Within MINIDOKA County
T08S R25E S19 SESWNW Lot 94 Within MINIDOKA County
T08S R25E S21 NESESW Lot 96 Within MINIDOKA County
T08S R25E S23 NWNWNW Lot 91 Within MINIDOKA County
T08S R25E S23 NWNWNW Lot 91 Within MINIDOKA County
T08S R25E S24 SENWNW Lot 95 Within MINIDOKA County
T09S R21E S1 NWNESW Lot 99 Within JEROME County
T09S R21E S3 NENWSW Lot 98 Within JEROME County
T09S R21E S3 SESESW Lot 91 Within JEROME County
T09S R21E S3 NWNENE Lot 95 Within JEROME County
T09S R22E S3 NWSESE Lot 99 Within MINIDOKA County
T09S R22E S3 NWSESE Lot 99 Within MINIDOKA County
T09S R22E S3 NWSESE Lot 99 Within MINIDOKA County
T09S R22E S7 SENENE Lot 97 Within MINIDOKA County
T09S R22E S7 NESENE Lot 97 Within MINIDOKA County
T09S R22E S9 SESWNW Lot 98 Within MINIDOKA County
T09S R22E S9 NENESW Lot 96 Within MINIDOKA County
T09S R22E S9 NENESW Lot 96 Within MINIDOKA County
T09S R22E S10 NESWNE Lot 99 Within MINIDOKA County
T09S R22E S11 NWNWNE Lot 94 Within MINIDOKA County
T09S R22E S11 SENENW Lot 94 Within MINIDOKA County
T09S R22E S15 NESWNE Lot 97 Within MINIDOKA County
T09S R22E S15 SWSWNE Lot 99 Within MINIDOKA County
T09S R22E S18 NESWSE Lot 97 Within MINIDOKA County
T09S R22E S18 NESWSE Lot 97 Within MINIDOKA County
T09S R22E S19 NWSWNW Lot 99 Within MINIDOKA County
T09S R22E S22 SESWNE Lot 99 Within MINIDOKA County

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T09S R22E S28 NESESE Lot 98 Within MINIDOKA County
 T09S R22E S30 NWNENE Lot 91 Within MINIDOKA County
 T09S R22E S33 SESESE Lot 98 Within MINIDOKA County
 T09S R22E S33 SESESE Lot 98 Within MINIDOKA County
 T09S R23E S2 NESENE Lot 96 Within MINIDOKA County
 T09S R23E S3 NESENE Lot 95 Within MINIDOKA County
 T09S R23E S3 NENWSW Lot 99 Within MINIDOKA County
 T09S R23E S6 SESENE Lot 99 Within MINIDOKA County
 T09S R23E S6 NWSWSE Lot 92 Within MINIDOKA County
 T10S R21E S2 SWNWSW Lot 95 Within JEROMIE County
 T10S R22E S3 SENWSW Lot 91 Within MINIDOKA County

THE FOLLOWING CONVENTION IS USED TO CONVERT THE GOVERNMENT LOTS LISTED IN THE ABOVE POINTS OF DIVERSION TO THE OFFICIAL US GOVERNMENT TRACT DESIGNATION: LOT 99 = TRACT A, LOT 98 = TRACT B, LOT 97 = TRACT C, LOT 96 = TRACT D, LOT 95 = TRACT E, LOT 94 = TRACT F, LOT 93 = TRACT G, LOT 92 = TRACT H, LOT 91 = TRACT J, LOT 90 = TRACT K, LOT 89 = TRACT L, LOT 88 = TRACT M, LOT 87 = TRACT N, LOT 86 = TRACT O, LOT 85 = TRACT P, LOT 84 = TRACT Q, LOT 83 = TRACT R, LOT 82 = TRACT S.

THE FOLLOWING POINTS OF DIVERSION EACH HAVE TWO WELLS:
 T07S, R23E, SEC 34, NWSWSE - MINIDOKA, T07S, R24E, SEC 28, NWSWNE, SEC 30, SWNWSE, SEC 32, SWSENE, SEC 33, SENWSE, SEC 35, SWSWSE - MINIDOKA, T08S, R21E, SEC 26, NWSENE, SEC 35, SESESE - JEROMIE, T08S, R22E, SEC 35, SWSWSE - MINIDOKA, T08S, R23E, SEC 01, NENWNE, SEC 04, SWSWSW, SEC 05, NESENE, SEC 12, SWSWNE, SEC 12, SESESW, SEC 14, NWNWNW, SEC 15, SENENW, SEC 17, NESESE, SEC 19, NWSWSE, SEC 23, SWNWSW, SEC 24, NESESW, SEC 28, NWSWSW, SEC 29, SESENE - MINIDOKA, T08S, R24E, SEC 03, SWSENE, SEC 04, NESWSW, SEC 11, SWNENW, SEC 13, NWNWNE, SEC 31, SWSWSE - MINIDOKA, T08S, R25E, SEC 03, SENENW, SEC 03, NWNWNW, SEC 05, NWNENE, SEC 06, NESESE, SEC 12, NWNWNW, SEC 15, NWSWSW, SEC 19, NENWNE, SEC 19, SESWNW, SEC 23, NWNWNW - MINIDOKA, T09S, R22E, SEC 9, NENESW, SEC 18, NESWSE, SEC 33, SESESE - MINIDOKA.

THE FOLLOWING POINT OF DIVERSION HAS THREE WELLS:
 T09S, R22E, SEC 03, NWSWSE - MINIDOKA.

PURPOSE AND PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	
IRRIGATION	04/01 10/31	1,100,000 CFS 250,417.20 AFY

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 15 AND MAY CONTINUE TO AS LATE AS NOVEMBER 15, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 1 AND AFTER OCTOBER 31 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE:

PLACE OF USE WITHIN THE BOUNDARY OF A & B IRRIGATION DISTRICT SERVICE AREA, PURSUANT TO SECTION 43-323, IDAHO CODE.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 62,604.3 ACRES WITHIN THE A & B IRRIGATION DISTRICT BOUNDARY IN A SINGLE IRRIGATION SEASON.

A&B 3274

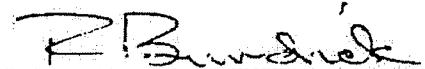
THE RIGHTS LISTED BELOW ARE LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 66,686.2 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 36-2080, 36-15127A, 36-15127B, 36-15192, 36-15193A, 36-15193B, 36-15194A, 36-15194B, 36-15195A, 36-15195B, 36-15196A, 36-15196B.

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.

RULE 54(b) CERTIFICATE

With respect to the issue 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
Administrative District Judge
Presiding Judge of the Snake
River Basin Adjudication

A&B 3275

A&B 2782 through 2789

A&B IRRIGATION DISTRICT
2007
ANNUAL PUMP REPORT
SYSTEM PERFORMANCE DURING PEAK PERIOD
PART 1

SYSTEM	GROUP	CURRENT ALLOTMENT ACRES	INCHES REQ. TO DELIVER .75" PER ACRE AT TURNOUT	LOWEST VERIFIED ALLOTMENT	INCHES AVAIL. AT TURNOUT	INCHES OF TOTAL LOSS IN SYSTEM					CRITERIA AVAILABLE PER ACRE AT TURNOUT					REMARKS
						2003	2004	2005	2006	2007	2003	2004	2005	2006	2007	
1AB823	3	860.4	645	720	720	90	75	0	0	0	.7125	0.8617	.8543	.8543	.8368	
1C823	3	448.4	376	386	346			18	20	40			1.1232	1.0964	.7716	See Notes
1A824	3	430.6	323	353	353	0	0	0	0	0	.7617	0.7548	.7037	.7896	.8198	D.H.
1A921	6	398.3	299	153	153	0	0	0	0	0	.0000	0.6058	.9313	.4770	.3841	D.H.
2A823	3	322.1	242	305	305	0	0	0	0	0	.7234	0.7637	.6923	.9935	.9469	
2A824	5	126.4	95	120	120	0	0	0	0	0	.7358	0.7358	.7595	.6883	.9494	D.H.
2A923	4	131.2	98	116	116	0	0	0	0	0	.8232	0.8232	.8537	.8384	.8841	
2A1021	6	282.5		NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	Supplements UnitA
3AB824	2	754.8	586	596	576	37	35	25	20	20	.7923	0.7883	.7817	.7896	.7631	
3AB825	7	873.6	708	716	663	54	42	55	39	53	.7738	0.7830	.7589	.7752	.7589	
3CD825	7	591.6	448	493	489	8	3	3	4	4	.7369	0.7268	.7218	.7066	.8266	
3E825	7	262.4	197	219	219	0	0	0	0	0	.8460	0.8384	.8346	.8346	.8346	
3A921	6	120.2	90	99	99	0	0	0	0	0	.5824	0.9318	.9567	.8319	.8236	D.H.
3B921	6	432.6				14	17	NA	NA	NA	.6865	0.6449	NA	NA	NA	2005-combined
3C921	6	451.1				29	25	NA	NA	NA	.6961	0.6916	NA	NA	NA	3B and 3C 921
3BC921	6	566.2	448	634	611			20	34	23			.4539	1.0791	1.0791	
3AB922	5	775.7	609	585	558	50	48	20	22	27	.7156	0.7451	.7838	.7645	.7194	
3C922	5	225.6	169		0	0	0	0	0		.0000	0.7743	.8268	.9530	.0000	No Allotment-2007
3D922	2	308.3	231	232	232		0	0	0	0		0.7947	.8368	.8531	.7525	
3A923	4	291.3	225	220	213	7	7	7	7	7	.7552	0.7346	.7209	.7449	.7312	
3B923	4	134.0	101	101	101	0	0	0	0	0	.8134	0.7761	NR	.7985	.7537	
4AB823	4	860.2	685	681	641	45	36	30	40	40	.7749	0.7830	.7766	.7580	.7452	
4A824	2	568.9	462	565	530	30	28	27	41	35	.7594	0.7418	.7435	.6996	.9316	
4BC-8A824	1-5	1,114.4	881	854	809	80	45	71	40	45	.8728	0.8494	.7820	.8072	.7260	
5BC823	4	633.8	475	520	520	15	0	0	0	0	.8126	0.7416	.8047	.8204	.8204	D.H.
5AB825	7	987.0	795	836	781	35	42	52	45	55	.7136	0.7062	.6900	.7497	.7913	
6A-7A824	1	1,111.0	898	879	814	80	70	80	75	65	.7480	0.7193	.7381	.7336	.7327	
6B824	2	359.7	280	296	286	13	7	15	10	10	.7784	0.8201	.8118	.8118	.7951	

A&B 2782

SYSTEM	GROUP	CURRENT ALLOTMENT ACRES	INCHES REQ. TO DELIVER .75" PER ACRE AT TURNOUT	LOWEST VERIFIED ALLOTMENT	INCHES AVAIL. AT TURNOUT	INCHES OF TOTAL LOSS IN SYSTEM					CRITERIA AVAILABLE PER ACRE AT TURNOUT					REMARKS
						2003	2004	2005	2006	2007	2003	2004	2005	2006	2007	
6C824	5	111.4	84	82	82	0	0	0	0	0	.7451	0.7002	.7540	.7271	.7361	
6AB825	7	593.4	479	457	423	30	35	38	30	34	.7411	0.7246	.7128	.7297	.7128	
6A923	1	480.0	360	408	408	0	0	0	0	0	.9063	0.8354	.8917	.8771	.8500	
6B923	4	284.2	213	217	217	0	0	0	0	0	.8726	0.9219	1.0204	.7776	.7635	D.H.
7AB922	5	931.1	752	669	615	62	38	76	55	54	.6546	0.6479	.6315	.5717	.6605	
8A823	1	424.9	319	390	390	26	25	NR	0	0	.8060	0.8514	NR	.9061	.9179	D.H.
9A921	1	317.5	238	259	259			0	0	0			.9134	.8850	.8157	
9C922	5	124.6	93	119	119	0	0		0	0	.6475	0.0000		1.1717	.9551	Throttled
9B922	5	281.3	211	252	252	0	0	0	0	0	.0000	0.7323	.7430	.7074	.8958	
10A823	3	175.0	131	130	130	0	0	0	0	0	.8735	0.9337	.8765	.8466	.7429	
10B823	3	113.8		NA	NA	0	0	0	NA	NA	.8436	0.8436	.7645	NA	NA	pump removed
10AB824	1	740.7	596	627	587	80	35	90	40	40	.7200	0.7510	.6814	.9221	.7925	
10C824	5	199.0	149	209	209	10	11	10	10	0	1.1809	1.1055	1.1307	.9548	1.0503	
11ABC824	1,2	1,038.4	869	902	812	80	80	95	90	90	.8523	0.8494	.8311	.8301	.7820	
11A825	7	274.0	206	234	234	0	0	0	0	0	.9489	0.8796	.8650	.8540	.8540	DH(later allot=1.0438)
11B922	4	231.6	174	189	189	0	0	0	0	0	.9011	0.7962	.9361	.7340	.8161	D.H.
11C922	4	280.4	210	259	259	0	0	0	0	0	.6990	0.6491	.8916	.9023	.9237	
12AB823	3	620.7	476	580	570	49	42	38	15	10	.9135	0.8942	.9183	.9103	.9183	
12CD823	3	734.8	588	627	590	48	35	52	43	37	.8125	0.8234	.7907	.7921	.8029	
12A824	3	336.2	252	256	256	0	0	0	0	0	.7139	0.7020	.6930	.9369	.7615	D.H.
12AB825	7	963.7	749	783	757	26	21	26	29	26	.8187	0.8032	.7928	.7897	.7855	
13AB824	2	974.2	761	788	758	36	38	30	35	30	.8243	0.8191	.7770	.7770	.7781	D.H.
13A825	5	160.0	120	126	126	0	0	0	0	0	.7625	0.7500	.7875	.7938	.7875	D.H.
14AB823	3	550.1	413		0	37	15	0	0		.7128	0.7145	.8489	.8817	.0000	
14A824	1	494.8	371	378	378	0	0	0	0	0	.8084	0.8347	.7639	.7761	.7639	
14C825	7	137.7	103	113	113	0	0	0	0	0	.9296	0.9150	.8642	.8206	.8206	DH
15AB823	3	783.5	588	650	650	45	40		0	0	.7204	0.7604		.8739	.8296	
15D823	4	100.8	76	95	95	0	0		0	0	.9275	1.0468		.9524	.9425	
15A824	1	358.4	269	358	358	10	10	10	0	0	.7868	0.7952	.7645	.8147	.9989	D.H.
15B824		164.8	124	236	236				0	0				1.2500	1.4320	D.H.
15AC825	5	911.3	728	876	831	36	26	35	35	45	.7055	0.7155	.6957	.6913	.9119	
15AB922	5	253.3	190	193	193	0	0	0	0	0	.7817	0.7777	.7698	.7935	.7619	D.H.
17AB823	4	540.3	405	528	528	29	0	0	0	0	.8028	0.8236	.8978	.8995	.9772	
17C823	1	233.9	175	209	209	0	0		0	0	.8256	0.9491		.9235	.8935	
17A825	5	454.9	341	400	400	0	0	0	0	0	.9650	0.9541	.9013	.8903	.8793	

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SYSTEM	GROUP	CURRENT ALLOTMENT ACRES	INCHES REQ. TO DELIVER .75" PER ACRE AT TURNOUT	LOWEST VERIFIED ALLOTMENT	INCHES AVAIL. AT TURNOUT	INCHES OF TOTAL LOSS IN SYSTEM					CRITERIA AVAILABLE PER ACRE AT TURNOUT					REMARKS
						2003	2004	2005	2006	2007	2003	2004	2005	2006	2007	
18A824	1	580.2	470	510	475	50	50	30	35	35	.6774	0.8532	.8583	.8411	.8187	
18AB922	5	649.8	502	551	536	15	20	21	20	15	.7504	0.7228	.7339	.8141	.8249	
19AB823	4	630.6	493	541	521	20	21	20	30	20	.8310	0.7659	.7961	.7913	.8262	
19AB825	2	911.4	714	812	782	36	45	50	50	30	.8108	0.7944	.7648	.7626	.8580	
19CD825	3	727.4	546	619	619	10	10	10	10	0	.7836	0.7465	.6475	.9183	.8510	D PUMP D.H.
19A922	6	272.4	204	192	192	0	0	0	0	0	.0000	0.7012	.7452	.7379	.7048	
21A823	4	418.6	314	298	298	0	0	0	0	0	.8210	0.7525	.6832	.7310	.7119	
21B823	4	232.8	175	225	225			0	0	0			1.1651	.9880	.9665	
21A&R824	1	767.7	606	649	619	30	20	40	30	30	.8078	0.8143	.8208	.8208	.8063	
21B824	2	419.7	325	321	311	18	5	10	10	10	.7958	0.7791	.7672	.7482	.7410	
21A825	5	479.2	359	370	370	0	0	0	0	0	.8535	0.8452	.8139	.7867	.7721	
22A724	7	157.2	118	120	120	0	0		0	0	.8270	0.8079		.7634	.7634	
22B724	7	401.0	311	325	315	15	12	0	10	10	.8209	0.8408	.8333	.8209	.7855	
22C724	7	319.0	249	307	297	10	10	10	10	10	.9780	0.9937	.9182	.9591	.9310	
22A821	6	397.7	298	309	309	0	0	0	0	0	.7644	0.7895	.7845	.7745	.7770	
22A823	4	387.2	290	305	305	0			0	0	.9642			.8394	.7877	
22A824	2	314.3	236	283	283	0	0	0	0	0	.9657	0.9625	.9272	.9704	.9004	
23A724	7	314.4	236	285	285	0	0	0	0	0	.7506	0.6997	.9351	.9542	.9065	D.H.
23AB823	4	437.3	328	394	394	25	20	15	0	0	.7759	0.7759	.8507	.9376	.9010	
23A824	2	580.9	466	478	448	28	25	32	30	30	.8039	0.8332	.8143	.8005	.7712	
23AB825	5	891.0	688	703	683	20	24	22	26	20	.7306	0.7250	.7183	.7048	.7666	
24A821	6	120.1	90	87	87	0	0	0	0	0	.0000	0.6911	.6661	.7327	.7244	
24AB823	3	972.1	769	788	748	68	55	35	40	40	.7530	0.7561	.7870	.7592	.7695	
24C823	3	305.4	229		0			0	0				1.2737	1.1821	.0000	New Delivery Point
24A825	5	288.5	216	255	255	0	0	0	0	0	.7383	0.7279	.7071	.8943	.8839	DH
25A823	3	207.5	156	168	168	0	0	0	0	0	.8000	0.7855	.7711	.7855	.8096	
26A724	7	384.4	288	318	318	0	0	0	0	0	.9235	0.9235	.8637	.8715	.8273	
26B724	7	159.6	120	141	141	0	0	0	0	0	.8772	0.8772	.8835	.8772	.8835	D.H.
26AB821	6	736.2	570	647	629	25	15	26	20	18	.7036	0.7063	.6955	.6751	.8544	
26A823	4		0		0	0	0				.8522	0.8323				pump removed
26B823		408.1	306	375	375				0	0				.8454	.9189	
26A824	2	534.6	401	464	464	8	8	0	20	0	.8679	0.8324	.8025	.8324	.8679	D.H.
27A725	7	124.9	94	100	100	0	0	0	0	0	.8247	0.8327	.8006	.7926	.8006	D.H.
27A823	1	291.6	219	298	298	0		0	0	0	1.0561		1.0014	1.0185	1.0219	
27B823	4	213.3	160	169	169	0	0	0	0	0	1.0071	0.9786	.9181	.8486	.7923	

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SYSTEM	GROUP	CURRENT ALLOTMENT ACRES	INCHES REQ. TO DELIVER .75" PER ACRE AT TURNOUT	LOWEST VERIFIED ALLOTMENT	INCHES AVAIL. AT TURNOUT	INCHES OF TOTAL LOSS IN SYSTEM					CRITERIA AVAILABLE PER ACRE AT TURNOUT					REMARKS
						2003	2004	2005	2006	2007	2003	2004	2005	2006	2007	
27C823	1	283.4	213	259	259	0	0		0	0	.0000	0.9989		.9598	.9139	
28AB724	7	612.6	469	497	487	23	20	10	25	10	.7280	0.6791	.8750	.7884	.7950	
28AB823	4	1,023.2	797	770	740	28	28	35	30	30	.6959	0.6343	.7242	.7359	.7232	
28C823	4	315.8	237	335	335	0	0	0	0	0	.9500	0.9500	.8866	.9563	1.0608	DH
28A922	6	115.2	86		0	0	0	0	0		.6858	0.6944	.7813	.7986	.0000	No Allotment-2007
29A725	7	282.3	212	265	265	0	0	0	0	0	.7156	0.7014	.6943	.9564	.9387	
29AB823	4	827.2	650	775	745	32	30		30	30	.7955	0.7132		.7447	.9006	
29A824	3	340.0	263	255	247	8	8	8	8	8	.7353	0.7265	.7441	.7324	.7265	
30AB724	3	749.0	579	590	573	30	30	60		17	.7130	0.6075	.7210	.0000	.7650	
30A725	7	433.8	325	345	345	0	0	0	0	0	.8473	0.8101	.7753	.7123	.7953	D.H.
30A822	6	234.7	176	219	219	0	0	0	0	0	.6988	0.6647	.6391	.9544	.9331	D.H.
30A824	3	308.7	232	229	229	0	0	0	0	0	.6608	0.7029	.6576	.6576	.7418	
30B824	3	217.4	163	165	165	0	0	0	0	0	.8924	0.8602	.7958	.8280	.7590	
30A922	6	422.4	327	364	354	10	10	10	10	10	.8546	0.8641	.8286	.8381	.8381	
31A724	2	272.5	204	295	295	0	0	0	0	0	.7059	0.6803	.7462	.6255	1.0826	
31A725	7	267.6	201	195	195	0	0	0	0	0	.8146	0.7997	.7661	.7399	.7287	D.H.
31A823	4	409.8	321	313	299	30	30	14	25	14	.7662	0.7077	.7809	.7101	.7296	
31AB824	3	768.5	576	605	605	0	0	0	0	0	.8198	0.8068	.7964	.7977	.7872	
32AB724	2	813.2	645	660	625	35	35	52	35	35	.8055	0.7563	.7846	.7809	.7686	
32A725	7	267.7	201	235	235	0	0	0	0	0	.7434	0.8853	.8405	.8330	.8778	
33AB724	7	667.0	520	525	505	18	18	20	20	20	.7319	0.7766	.7871	.7526	.7571	
33A725	7	423.3	317	295	295	2	2	2	2	0	.7607	0.7512	.7418	.7347	.6969	
34AB723	3	645.5	512	559	531	18	10	18	20	28	.7312	0.7405	.7157	.7018	.8226	
34A724	2	451.5	339	322	322	0	0	0	0	0	.8128	0.7907	.7996	.7198	.7132	
34A725	7	400.6	309	337	328	5	4	6	6	9	.8487	0.8412	.8387	.8263	.8188	
34A823	4	266.0	203	192	189	3	3	3	3	3	.7525	0.7450	.7180	.7180	.7105	
35AB724	2	706.7	560	539	509	23	28	30	30	30	.7500	0.7344	.7330	.7457	.7202	
35A821	6	305.3	229	273	273	0	0	0	0	0	.9204	0.9106	.9139	.8647	.8942	
35BCD821	6	1107.8	850	715	696	47	22	42	50	19	.6703	0.6965	.6685	.6147	.6283	745"=.6554 See Note
35AB822	4	793.4	665	695	625	90	72	70	80	70	.7751	0.7663	.7562	.7827	.7877	
35C822	5	160.0	120	137	137	0	0	0	0	0	.8375	0.8375	.7563	.8438	.8563	D.H.
35A823	4	473.9	362	353	346	7	7	7	7	7	.7808	0.7238	.7111	.7238	.7301	
35B823	4	123.9	93	96	96	0	0	0	0	0	.7264	0.7264	.7183	.7748	.7748	D.H.
35C823	4	232.4	174	225	225	0	0		0	0	.9048	0.8962		.8305	.9682	
35D823	4	102.6	77	86	86	0	0		0	0	.8480	0.8382		.8772	.8382	

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SYSTEM	GROUP	CURRENT ALLOTMENT ACRES	INCHES REQ. TO DELIVER .75" PER ACRE AT TURNOUT	LOWEST VERIFIED ALLOTMENT	INCHES AVAIL. AT TURNOUT	INCHES OF TOTAL LOSS IN SYSTEM					CRITERIA AVAILABLE PER ACRE AT TURNOUT					REMARKS	
						2003	2004	2005	2006	2007	2003	2004	2005	2006	2007		
4R1022		46.9	35	53	53	0	0	0	0	0	1.1087	1.1727	1.3006	1.2367	1.1301		
6R1022		154.6	116	161	161	0	0	0	0	0	1.0155	1.0155	.9702	.9832	1.0414		
7R1022		214.6	161	368	368	0	0	0	0	0	1.0463	1.9571	1.8546	1.7148	1.7148		
9R1021		61.3	46		0	0	0				1.2235	1.3703				No Allotment-05-07	
9R1022		723.9	578	713	678	35	30		57	35	.8668	0.9137		.8786	.9366	No Allotment-2005	
13R1021		SUPPLEMENT TO UNIT A CANAL															
15R1021		132.7	NA	NA	NA						NA	NA	NA	NA	NA	Removed	
20RR824		175.7	132	NA	NA	10	10				.6992	1.6619	NA	NA	NA	No longer do allotments	
21R824		SUPPLEMENT TO 21A 824															
24RL823		148.7	NA	NA	NA	0	0				.8608	0	NA	NA	NA	Removed	
24RR823		305.4	NA	NA	NA	0	0				.9528	0.9725	NA	NA	NA	Removed	
28RL922		159.6	120	270	270	0	0	0	0	0	1.6792	0.8431	1.6792	1.3659	1.6917		
28RR922		123.6	NA	NA	NA	3	3	0	0		1.2157	1.3754	1.3511	1.3916	NA	Not ours anymore	
28OR922		134.6	101	106	106	0	0	0	0	0	.6835	0.7875	.7801	.8098	.7875		
29RRRL922		411.9	313	376	372	9	4	4	5	4	.8352	0.629	.8497	.8376	.9031		
33.9(33BC922)		530.8	NR			NR	NR	NR	NR	NR	NR	NR	NR	NR	NR		
NOTES:																	
1C823		Allotment 6/20 with discharge of 435", 7/13 discharge 500", 8/21 discharge 386". Not sure, but I used the lowest allotment.															
35BCD821		Allotment dated 6/20 has two discharges for 35D, 715" and 745". Not sure, but I used the lowest discharge.															

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A&B IRRIGATION DISTRICT
2007
ANNUAL PUMP REPORT
HYDROLOGIC DATA OF INDIVIDUAL WELLS
PART 2

LOW PUMPING DEPTH							EST	BOWL SET DEPT H	DIST-ANCE FROM BOWL	Well Depth	DISCHARGE IN INCHES								REMARKS		
WELL	Group	2003	2004	2005	2006	2007					2003 HIGH	2003 LOW	2004 HIGH	2004 LOW	2005 HIGH	2005 LOW	2006 HIGH	2006 LOW		2007 HIGH	2007 LOW
1A823	3	269.8	271.7	271.0	274.3	274.3		290	15.7	368	464	445	465	441	450	450	452	440	435	420	D.H.
1B823	3	269.9	270.1	271.0	274.9	ANG	275	290	15.0	371	290	279	290	265	314	314	290	283	285	280	D.H.
1C823	3		239.2	237.4	246.9	242.9		290	47.1	315.5	321	313	510	510	491	490	510	500	500	386	
1A824	3	199.4	201.0	201.7	205.2	204.6		220	15.4	228	338	321	325	313	303	303	340	340	353	341	D.H.
1A921	6	355.4	363.1	383.9	373.9	371.8		400	28.2	406	335	316	315	240	369	229	351	190	286	150	D.H.
2A823	3	249.5	251.0	250.1	253.0	252.1		280	27.9	327	250	236	248	234	245	223	328	315	317	302	
2A824	5	195.9	OOW	OOW	OOW	ANG	199	210	11.0	236	96	93	93	93	96	96	87	87	120	120	D.H.
2A923	4	171.0	173.3	174.1	176.4	175.8		180	4.2	247	108	108	115	108	121	109	110	110	118	105	
2A1021	6	ANG	ANG	ANG	ANG	ANG	372	410	38.0	646	212	212					192	189	200	191	
3A824	2	OOW	OOW	OOW	OOW	OOW	220	220	0.0	335	435	430	440	433	436	415	487	379	435	400	
3B824	2	216.7	218.5	220.0	222.7	221.1		220	-1.1	302	208	203	206	202	205	191	210	140	180	170	
3A825	7	243.5	243.5	244.8	249.2	248.8		260	11.2	356	377	370	375	369	375	365	372	365	370	365	
3B825	7	241.2	242.6	244.0	242.5	246.5		250	3.5	340	360	359	360	355	356	353	360	350	357	350	
3C825	7	241.5	243.2	243.9	246.6	ANG	247	280	33.0	367	256	252	251	248	250	245	249	242	320	308	
3D825	7	236.7	238.9	239.6	241.9	241.1		250	8.9	381	187	183	187	185	187	183	188	180	181	179	
3E825	7	239.1	239.0	239.0	241.3	242.3		240	-2.3	304	224	222	223	220	223	219	221	219	223	219	
3A921	6	341.8	377.5	373.0		373.7		400	26.3	384	91	89	112	112	115	115	100	91	99	98	D.H.
3B921	6	334.7	343.7	335.7	345.6	338.4		363	24.6	437	366	311	324	287	313	313	294	294	264		
3C921	6	352.4	356.0	353.8	359.6	356.5		380	23.5	700	359	343	342	337	310	275	356	351	370		
3A922	5	ANG	ANG	ANG	ANG	ANG	263	270	7.0	319	424	417	409	396	405	400	399	356	379	360	
3B922	5	258.2		257.3	262.3	262.0		260	-2.0	322	232	232	217	206	250	223	250	211	221	193	
3C922		259.4	262.4	258.8	262.9	263.1		272	8.9	347	253	253	177	177	189	189	236	215	213		D.H.
3D922			275.0	273.0	275.9	274.9		301.5	26.6	337			262	245	258	252	269	269	238	232	
3A923	4	188.2	188.9	OOW	OOW	OOW	192	200	8.0	380	231	227	231	221	231	217	225	224	225	220	
3B923	4	165.8	167.7	169.7	173.4	170.4		200	29.6	282.5	113	113	108	104	107	104	107	92	114	90	D.H.
4A823	4	264.6	266.6	265.4	268.2	268.9		270	1.1	368	476	451	487	455	500	465	468	468	473	461	
4B823	4	264.0	265.3	264.2	268.9	267.1		270	2.9	306	239	213	245	233	274	200	235	217	247	204	
4A824	2	222.6	233.7	233.9	236.2	241.3		260	18.7	322	475	460	451	439	476	444	452	439	565	565	
4B824	1	231.4	233.2	232.0	OOW	230.9		230	-0.9	313	435	420	421	400	435	403	428	416	435	371	

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LOW PUMPING DEPTH							EST	BOWL SET DEPT H	DIST-ANCE FROM BOWL	Well Depth	DISCHARGE IN INCHES								REMARKS		
WELL	Group	2003	2004	2005	2006	2007					2003 HIGH	2003 LOW	2004 HIGH	2004 LOW	2005 HIGH	2005 LOW	2006 HIGH	2006 LOW		2007 HIGH	2007 LOW
4C824	5	222.8	224.2	225.3	227.4	226.3		240	13.7	370	225	202	220	195	220	203	218	218	218	200	
5B823	4	273.7	276.9	274.5	273.7	279.9		300	20.1	333	331	312	289	227	366	225	355	345	329	315	D.H.
5C823	4	276.0	278.0	277.0	281.4	281.5		280	-1.5	388	203	203	210	200	170	150	196	165	205	165	D.H.
5A825	7	227.9	229.5	231.2	232.4	232.5		250	17.5	292	506	498	502	495	501	493	506	500	510	498	
5B825	7	227.6	229.5	231.3	232.5	231.1		250	18.9	410	245	242	246	241	245	240	328	284	354	336	
6A824	1	261.4	262.9	263.7	266.6	265.3		290	24.7	363	510	468	476	450	468	446	480	440	465	446	
6B824	2	266.0	257.4	256.0	258.3	258.9		280	21.1	336.5	302	293	302	299	314	297	302	302	302	285	
6C824	5	225.8	228.8	226.6		OOW	228	230	2.0	300	85	80	87	78	85	80	83	80	82	82	D.H.
6A825	7	194.5	196.7	196.8		OOW	199	200	1.5	257	307	300	304	295	300	295	300	293	300	298	
6B825	7	193.3	195.4	195.9	198.5	198.5		200	1.5	236	170	170	173	163	175	162	173	159	168	155	
6A923	1	OOW	OOW	OOW		OOW	200	200	0.0	259	435	432	410	401	428	424	421	410	408	408	
6B923	4	179.2	181.7	179.1	182.1	181.3		200	18.7	205	250	250	262	262	290	282	221	221	244	217	D.H.
7A824	1	250.5	251.2	251.6	259.2	254.8		270	15.2		450	450	452	424	450	440	463	443	445	428	
7A922	5	ANG	ANG	ANG		351.8		390	38.2	531	381	317	351	310	346	315	357	258	313	246	
7B922	5	315.5	319.4	322.0	324.3	322.1		330	7.9	357	417	417	417	410	417	403	406	396	403	389	
8A823	1	262.2	263.7	263.5	266.8	266.1		280	13.9	351	448	441	428	386	293	293	387	385	413	390	D.H.
8A824	1	206.0	206.6	207.2	208.9	208.1		223	14.9	329.8	408	384	380	345	360	300	350	292	315	209	
9A921						ANG		360						298	290	281	281	259	259		
9A922	5	288.6	NA	NA		NA		NA		291.2	119	45									Pump removed
9B922	5	313.3	310.7	303.6	318.6		320	350	30.0	501	200	200	209	206	210	209	203	199	275	245	D.H.
9C922	5	ANG	ANG	ANG		287.0		320	33.0	464	177	136	254	245	126	126	146	146	161	161	
10A823	3	236.0	237.4	236.5	240.0	240.3		260	19.7	332	188	174	188	183	182	179	183	170	146	130	
10B823	3	246.0	247.4	246.3		NA		NA		326	110	95	96	95	93	85					Pump removed
10A824	1	199.8	201.6	203.0	205.1	204.4		210	5.6	258	443	430	431	406	420	395	410	407	397	322	
10B824	1	186.4	188.5	189.6	191.1	191.4		200	8.6	238	322	306	315	304	316	286	315	315	315	285	
10C824	5	191.0	192.8	193.5	196.0	195.2		200	4.8	240	245	235	242	231	297	206	235	200	209	190	D.H.
10A922	5	253.4	NA	NA		NA		NA		265	50	33									Pump removed
11A824	1	199.4	200.1	201.6	203.1	202.9		220	17.1	276	525	519	530	516	531	504	543	468	497	472	
11B824	1	196.8	ANG	ANG		ANG	201	200	-1.0	246	192	168	192	166	168	165	170	168	180	166	
11C824	3	196.4	198.7	198.7	200.9	200.9		240	39.1	383	272	271	281	272	272	268	278	260	268	240	
11A825	7	199.4	202.3	ANG	203.7	204.1		210	5.9	230	260	260	253	241	255	237	253	234	286	234	D.H.
11B922	7	258.8	260.0	259.1	260.6	258.6		260	1.4	406	207	200	210	182	214	214	170	170	189	189	D.H.
11C922	4	233.2	240.0	233.3	236.4	241.8		270	28.2	494	213	212	196	182	274	274	253	253	263	259	
12A823	3	245.7	247.3	257.6	250.8	250.8		270	19.2	315	480	468	469	459	480	453	470	460	430	425	D.H.
12B823	3	247.4	248.8	247.6	251.4	251.1		270	18.9	314	148	144	150	136	153	150	150	150	150	150	D.H.

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LOW PUMPING DEPTH							EST	BOWL SET DEPT H	DIST-ANCE FROM BOWL	Well Depth	DISCHARGE IN INCHES								REMARKS		
WELL	Group	2003	2004	2005	2006	2007					2003 HIGH	2003 LOW	2004 HIGH	2004 LOW	2005 HIGH	2005 LOW	2006 HIGH	2006 LOW		2007 HIGH	2007 LOW
12C823	3	245.2	238.3	246.0	249.9	248.5		270	21.5	289	430	414	425	406	422	416	425	410	420	412	
12D823	3	242.3	243.8	243.2	248.9	249.5		270	20.5	301	299	230	230	220	228	209	229	207	220	205	
12A824	3	183.9	186.3	OOW	187.0	186.9		210	23.1	226	237	240	236	216	233	229	315	315	256	256	D.H.
12A825	7	216.6	219.0	220.0	221.6	221.8		220	-1.8	272	464	460	440	430	422	419	455	419	435	425	D.H.
12B825	7	215.8	217.4	219.5	220.9	220.5		230	9.5	295	377	375	375	369	375	371	376	369	382	365	
13A824	2	187.2	189.0	189.5	191.9	191.5		200	8.5	249	561	549	525	525	520	507	581	520	556	534	
13B824	2	187.5	189.1	NR			194	200	6.0	252	290	290	290	290	290	240	272	272	269	254	
13A825	5	184.0	181.0	187.7	189.1		190	190	0.0	250	120	120	126	113	126	111	128	111	127	113	
14A823	3	229.7	231.1	230.5			232	260	28.0	297	310	294	308	269	256	243	275	249	278	255	D.H.
14B823	3	231.9	234.8	240.3	241.1	242.9		260	17.1	275	166	134	157	147	213	196	239	211	232	223	D.H.
14A824	1	163.1	164.9	166.2	168.7	167.7		180	12.3	233	400	400	413	402	390	378	388	384	378	366	
14C825	7	189.8	193.2	194.2	196.2	196.6		200	3.4	254	120	120	122	117	119	108	120	103	120	103	D.H.
15A823	3	240.8	ANG	ANG			246	250	4.0	307	490	478	501	470	477	468	468	448	458	436	
15B823	3	244.2	246.3	241.6	248.3	249.9		260	10.1	299	229	203	210	181			224	217	218	211	
15D823	4	232.2	224.4	223.5	227.6	226.7		230	3.3	288	101	101	114	114	115	115	96	96	100	95	D.H.
15A824	1	180.5	182.3	183.1	184.7	186.6		210	23.4	230	300	292	300	285	295	264	263	263	358		
15B824					169.3			203	203.0								292	292	236		D.H.
15A825	5	182.4	184.2	185.2		188.1		220	31.9	260	516	509	509	498	503	499	496	490	646	632	
15B825	5	181.0	179.3	184.7	187.0	NA		NA		250	170	167	176	169	175	170	175	170			Pump removed
15C825						188.7		220	31.3										230	220	
15A922	5	293.3	295.0	279.7	298.4	300.3		300	-0.3	391	96	89	91	88	90	87	90	85	90	83	
15B922	5	ANG	ANG	ANG			300	330	30.0	370	112	108	110	105	110	102	115	103	110	106	D.H.
17A823	4	229.9	231.5	230.7	233.0	233.0		260	27.0	305	335	321	330	320	323	258			285		D.H.
17B823	4	230.9	235.7	234.0	236.0	236.1		250	13.9	278	143	114	180	180	195	150	189	150	179	150	D.H.
17C823	1	252.8	ANG	ANG			258	280	22.0	302	116	111	229	203	200	192	216	216	209	209	D.H.
17A825	5	161.2	161.8	164.3	166.3	166.6		160	-6.6	211	439	431	434	434	410	410	410	405	400	400	
18A824	1	217.0	215.9	217.6	222.8			240	240.0	263.5	453	437	555	545	545	528	532	515	532	505	
18A922	5	277.1	ANG	ANG	295.4	297.4		310	12.6	320	308	289	300	285	309	298	283	272	306	275	
18B922	5	284.5	292.0	289.6	299.5	298.5		320	21.5	337	121	121	128	117	123	122	277	277	272	247	
19A823	4	244.1	246.0	242.6	247.4	247.4		250	2.6	300	355	349	359	325	360	326	353	332	359	345	
19B823	4	241.1	242.8	241.5	244.5	245.6		250	4.4	290	200	188	200	188	195	186	195	190	184	184	
19A825	2	152.1	157.8	158.7	159.8	159.9		180	20.1	219	488	472	491	477	493	467	593	434	530	455	
19B825	2	156.4	158.3	159.1	161.0	161.1		160	-1.1	220	295	290	291	281	290	220	300	168	282	282	
19C825	3	160.1	161.9	162.7	166.0	166.2		180	13.8	223	390	364	380	348	344	311	483	445	458	445	
19D825	3	160.2	161.4	163.6	162.3	163.9		180	16.1	223	225	200	200	195	211	161	212	200	183	170	D.H.

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LOW PUMPING DEPTH							EST	BOWL SET DEPT H	DIST-ANCE FROM BOWL	Well Depth	DISCHARGE IN INCHES								REMARKS		
WELL	Group	2003	2004	2005	2006	2007					2003 HIGH	2003 LOW	2004 HIGH	2004 LOW	2005 HIGH	2005 LOW	2006 HIGH	2006 LOW		2007 HIGH	2007 LOW
19A922	6	334.7	337.6	337.6	340.1	340.5		340	-0.5	422	208	207	198	191	203	203	201	201	192	183	D.H.
21A823	4	220.3	221.5	221.4	225.3	223.9		220	-3.9	286	350	341	315	302	315	284	363	306	318	298	D.H.
21B823				201.0	200.4	201.1		242	40.9						232	230	320	230	225	225	D.H.
21A824	1	172.2	174.3	175.1	177.0	177.2		190	12.8	335.3	561	515	515	494	538	476	511	500	526	475	
21B824	2	183.5	185.4	186.5	188.4	187.3		200	12.7	347	361	346	346	324	350	319	335	324	321	321	
21A825	5		161.2	ANG			166	180	14.0	228	415	409	406	405	392	390	387	377	382	370	
22A724	7	233.2	235.2	235.9	238.5	238.1		242	3.9	318	140	130	127	127	120	120	130	120	120		D.H.
22B724	7	240.6	243.2	243.9	246.9	246.2		270	23.8	348	350	332	351	333	341	322	355	335	330	318	
22C724	7	225.8	229.4	231.1	233.1	232.0		230	-2.0	307	321	321	329	321	316	299	326	326	307	305	
22A821	6	333.2	336.2	336.5	339.2	337.1		340	2.9	390	315	309	314	314	312	310	313	301	312	301	
22A823	4	224.8	225.2	227.0	227.8	227.3		250	22.7	281	372	361	323	312			330	325	325	300	
22A824	6	ANG	ANG	ANG		171.6		180	8.4	246	309	300	301	289	300	281	384	283	288	282	
23A724	7	236.9	238.8	239.0	242.7	241.6		260	18.4	295	280	239	225	220	304	294	335	300	300	285	D.H.
23A823	4	232.9	234.3	233.7	235.9	235.7		250	14.3	289	335	323	327	304	243	232	254	254	240	238	D.H.
23B823	4	229.6	230.5	232.5	233.9	235.2		250	14.8	295	147	126	147	147	165	155	160	155	160	150	D.H.
23A824	2	174.0	175.1	176.6	179.2	178.2		180	1.8	260	497	492	509	496	505	502	496	483	482	465	
23A825	5	192.5	196.5	OOW		209.7		220	10.3	276	341	332	342	335	333	330	333	328	426	383	
23B825	5	194.1	196.4	197.6			200	200	0.0	252	345	341	340	333	335	329	335	327	330	323	
24A821	6	344.3	347.0	346.3	351.6	349.9		370	20.1	454	83	75	87	83	91	80	88	87	91	87	D.H.
24A823	3	199.0	200.0	199.8	203.4	203.0		220	17.0	314	475	435	520	471	530	473	500	486	495	465	
24B823	3	179.8	181.4	182.3	184.0	184.9		180	-4.9	257	325	325	321	270	321	319	306	278	298	270	
24C823	1	180.8	NR	188.4	182.8	184.4		200	15.6	240	396	375	383	382	389	380	382	361	348	345	
24A825	5	186.1	189.0	190.3	191.4	195.0		210	15.0	504	221	218	221	199	216	194	268	245	260	234	D.H.
25A823	3	173.2	174.2	174.5	176.3	176.3		180	3.7	224	176	176	163	163	165	160	163	163	168	165	D.H.
26A724	7	229.6	229.8	231.4	234.8	233.4		250	16.6	285	355	354	355	350	332	332	340	335	332	283	D.H.
26B724	7	218.5	220.5	221.3	224.7	223.0		250	27.0	305.5	141	140	145	140	141	140	141	139	141	140	D.H.
26A821	6	359.8	359.5	361.9		365.4		390	24.6	527	229	211	223	206	223	210	206	200	334	334	
26B821	6	372.6	375.3	376.8	377.3	374.5		390	15.5	587	335	321	330	320	336	322	326	309	313		
26A823	4	181.4	184.1	NA		NA		NA		300	215	208	215	195							Pump removed
26B823				161.3	160.3		162	222	60.0						317	292	345	345	375	345	D.H.
26A824	2	152.1	153.8	155.0	156.9	156.9		160	3.1	208	445	416	453	449	450	429	465	465	475	464	D.H.
27A725	7	236.3	235.6	239.4	241.2	240.9		240	-0.9	334	105	101	104	101	100	100	101	98	100	100	D.H.
27A823	1	202.2	201.9	208.1	209.0	212.0		230	18.0	367	312	286	327	309	292	290	300	297	300	295	D.H.
27B823	4	196.8	199.4	198.5	201.5	202.9		200	-2.9	228	230	213	206	194	213	194	218	181	180	166	D.H.
27C823	1	215.1	217.6	207.1	211.7	218.4		230	11.6	257	299	282	285	283	282	280	284	270	275	259	D.H.

LOW PUMPING DEPTH							EST	BOWL SET DEPT H	DIST-ANCE FROM BOWL	Well Depth	DISCHARGE IN INCHES								REMARKS		
WELL	Group	2003	2004	2005	2006	2007					2003 HIGH	2003 LOW	2004 HIGH	2004 LOW	2005 HIGH	2005 LOW	2006 HIGH	2006 LOW		2007 HIGH	2007 LOW
28A724	7	244.1	246.5	246.7	248.8	249.1		270	20.9	347	300	290	301	283	405	342	365	361	358	350	
28B724	7	243.0	244.9	245.6	248.8	248.2		250	1.8	353	177	156	160	140	160	121	147	147	150	146	
28A823	4	212.1	213.5	216.1	218.9	217.0		240	23.0	261	500	446	488	410	570	480	540	516	530	482	
28B823	4	211.6	213.2	212.9	216.1		217	220	3.0	257	282	275	293	267	310	274	297	263	305	268	
28C823	4	207.6	208.8	207.6	210.6	210.0		230	20.0	298	300	300	300	300	297	264	320	315	335	335	D.H.
28A922	6	282.5	283.7	297.7			300	300	0.0	435	97	78	91	72	105	90	103	84	105	93	D.H.
29A725	7	269.8	272.1	273.4	273.2	275.2		300	24.8	367	206	204	205	198	200	196	276	268	265	264	
29A823	4	220.1	221.8	221.1	222.1	225.0		240	15.0	286	480	473	473	416	470	455	464	446	565	555	
29B823	4	220.7	224.6	221.5	225.0	224.1		230	5.9	248	217	217	217	200	210	190	203	194	210	200	
29A824	3	152.1	154.1	155.8	157.5	156.6		160	3.4	220	268	258	268	255	266	250	259	255	257	255	
30A724	3	285.4	288.2	298.7	300.8	298.8		320	21.2	391	357	313	336	242	420	403	420	401	414	386	
30B724	3	283.4	285.6	288.4	289.7	290.3		300	9.7	394	245	217	224	182	210	195	217	192	205	187	
30A725	7	260.9	263.0	264.1	264.4	265.9		270	4.1	298	265	360	356	349	358	334	333	309	345	345	D.H.
30A822	6	309.4	313.6	312.3	329.8	323.8		350	26.2	516	160	159	160	156	152	150	233	207	219	197	D.H.
30A824	2	174.4	175.6	175.9	177.2	179.0		200	21.0	258	217	200	217	206	213	193	203	199	237	229	D.H.
30B824	3	153.9	155.3	156.4	159.9	157.6		160	2.4	299	200	190	192	187	177	170	180	170	180	160	D.H.
30A922	6		335.5	336.9	336.6	334.9		390	55.1	500	376	368	374	367	368	360	369	361	375	364	
31A724	2	273.7	275.2	274.4	276.6	279.1		300	20.9	361	201	192	198	186	208	190	172	171	295	295	D.H.
31A725	7	213.7	215.5	216.5	219.8	218.9		220	1.1	247	220	218	218	214	205	204	202	198	205	195	D.H.
31A823	4	205.8	207.3	206.5	210.7	211.5		230	18.5	242	350	344	344	325	334	328	330	316	332	312	
31A824	3	194.5	196.3	196.9	199.0	198.7		200	1.3	302	457	434	444	434	444	427	436	430	435	420	
31B824	3	191.1	192.8	193.4	195.4	195.1		200	4.9	268	188	185	187	180	189	181	187	180	187	178	
32A724	2	243.4	245.0	245.1	248.6	247.3		260	12.7	395	435	400	430	403	426	404	405	393	420	385	
32B724	2	238.1	239.8	241.2	242.6	243.0		240	-3.0	397	302	269	267	240	292	260	267	260	270	256	
32A725	7	214.2	217.7	215.2	220.1	219.7		240	20.3	234	202	198	237	215	229	225	223	223	235	235	
33A724	2	234.9	236.5	237.1		OOW	239	240	1.0	389	275	270	275	260	265	245	271	260	263	261	
33B724	7	250.0	248.5	241.0		ANG	250	270	20.0	286	238	234	301	272	298	284	273	260	265	261	
33A725	7	ANG	ANG	ANG		ANG	241	250	9.0	300	324	323	324	320	316	315	316	313	295		D.H.
34A723	3	263.9	265.4	263.9	267.4	272.6		290	17.4	321	323	318	314	295	321	311	321	308	420	398	
34B723	3	267.4	268.9	267.8	271.5	271.9		280	8.1	321	188	174	184	170	183	165	183	163	170	148	
34A724	2	221.5	223.1	223.9		OOW	226	220	-6.0	258	379	360	357	350	361	332	327	320	322	321	
34A725	7	240.0	242.4	243.7		ANG	246	260	14.0	340	345	343	348	341	342	342	344	337	340	337	
34A823	4	172.9	174.6	176.2	178.2	178.2		180	1.8	334	204	201	202	202	200	180	196	196	196	192	
35A724	2	236.1	237.9	238.8	240.8	241.2		240	-1.2	265	388	386	388	384	390	383	415	298	397	382	
35B724	2	223.5	226.2	227.2	229.0	229.0		240	11.0	275	165	165	168	165	168	165	262	141	152	152	

LOW PUMPING DEPTH							EST	BOWL SET DEPT H	DIST- ANCE FROM BOWL	Well Depth	DISCHARGE IN INCHES								REMARKS		
WELL	Group	2003	2004	2005	2006	2007					2003 HIGH	2003 LOW	2004 HIGH	2004 LOW	2005 HIGH	2005 LOW	2006 HIGH	2006 LOW		2007 HIGH	2007 LOW
35A821	6	333.7	336.3	336.1	337.4	336.5		340	3.5	377	281	275	278	277	279	278	270	264	273		
35B821	6	353.3	356.2	356.6	358.0	359.2		360	0.8	425	282	278	281	270	282	270	267	254	260	246	
35C821	6	350.3	351.7	OOW		OOW	355	360	5.0	417	310	302	310	283	309	305	308	301	313	301	
35D821	6	ANG	ANG	ANG	367.9		368	363	-5.0	406	308	258	277	217	223	200			283	150	
35A822	4	226.3	227.3	226.4		OOW	228	230	2.0	350	480	470	473	450	478	450	468	455	473	473	
35B822	4	227.1	225.9	227.3	230.9	230.9		240	9.1	265	238	230	227	215	238	220	242	227	238	222	
35C822	5	261.8	264.0	260.0		ANG	262	280	18.0	348	138	134	140	134	140	120	134	134	137	137	D.H.
35A823	4	182.5	186.1	ANG		ANG	190	200	10.0	308	384	377	380	350	355	334	362	350	353	353	
35B823	4	172.6		175.2	176.7	176.8		200	23.2	264	93	90	96	90	100	81	96	90	97	96	D.H.
35C823	4	176.7	178.3	177.7	179.4	182.5		200	17.5	293.5	212	212	210	208			227	193	225	201	D.H.
35D823	4	170.4		172.6	174.2	174.8		190	15.2	230	90	85	86	86	87	80	90	90	86	86	D.H.

A&B 2792

L-Lowered
D-Drilled
R-Rectified
RB-Rebuilt Bowls
NB-New Bowls

A&B Irrigation District - Rupert, Idaho

11/7/2007

2007 Annual Pump Report - Part 3

Physical Data on Individual Wells/Pumps

Well/Pump	SolePlate Elevation	Bowl Set Depth	Bottom Of Screen	Trans Cap	Motor HP	BowlDia	Min. Well Dia	Last Rectification Summary	Yrs since workd on	Remarks
1A823	4352.81	290	301.8	3-200	400	17	24	1960-RL 1982-L 1988-RB 2004-NB	2.8	
1B823	4352.85	290	298.3		250	15	20	1960-L 1965-R 2004-LNB	2.8	
1C823	4318.37	290	299.7	3-100	300	16.92	20	1957-R 1960-L 1990-L 2004 DLRNB	0.1	
1A824	4305.25	220	228.5	3-75	250	17.125	20	3/8/2006-D,NB,L	1.7	#see pink sheat
1A921	4291.22	400	410	3-150	400	14	12	1961-L 2005-DLNB 2006 NB	1.5	2-15-1962 Lowered,5-15-2005-Drilled&Lowered,5-10-2006-New Bowls
2A823	4328.77	280	293.6	3-75	200	17	20	1961-L 3/2006-NB	1.7	
2A824	4298.67	210	216.3	3-25	75	10	12	1961-DL 1966-R 1991-L 2006 Pul.2007 N.B.	0.6	
2A923	4274.17	180	197	3-25	50	12	14	1961-DL 1964-R	43.7	
2A1021	4272.11	410	441	3-100	300	15	24	(pump card - installed Winter 62)	44.8	
3A824	4321.50	220	241	3-167	250	21	20	1961-L	46.8	
3B824	4321.49	220	238		125	18.25	20	1962-L	45.8	
3A825	4351.90	260	277	3-167	250	14	24	1960-L 1984-RL	23.8	
3B825	4351.91	250	272		250	17.125	20	1962-RL	44.5	
3C825	4345.44	280	292.9	3-150	250	14.75	20	1961-L 1993-L,2006 Pul.-2007-NB-L	0.8	
3D825	4345.40	250	268	3-150	125	12	16	1960-L 1964-DLR	43.7	
3E825	4352.08	240	261	3-50	150	14	20	1965-L 1966-R	41.7	
3A921	4252.54	400	407.5	3-50	150	14	14	1962-DLR 1987-R 1988-R NB 1993-L 2003-DLRNB	4.2	
3B921	4248.05	363	379.6	1-380	250	14	20	1962-DLR 1984-DLR 1985-R NB 1994-RB 9/2005-NB,L	2.2	HOLE DEPTH 426' 8/23/05 This bowl unite has two different impellers,top 2 14RHMC, 2 14RHHC on bot.
3C921	4248.12	380	390	3-167	350	14	19	1961-DLR 1984-DLR NB 1992-DL RB 97-R 2006 NB	1.5	
3A922	4286.39	270	295	3-167	300	18	20	1960-DLR 1984-L RB	23.8	
3B922	4286.65	260	278		200	14	16	1961-L 1964-DLR 1974-RB Puled Pump. 10-25-2007	0.1	10Ft. Length suction in bottom of hole.see pink card.
3C922	4286.00	272	279.7	3-75	200	14	19	1992-DRILLED & INSTALLED	14.7	Pump came from 11A922
3D922		301.5	309.7		250	14.25	20	2003-DRILLED & INSTALLED, NB	3.6	
3A923	4273.65	200	218	3-50	125	17	16	1963-DLR	44.5	
3B923	4265.02	200	217	3-25	50	12	14	1982-L 1989-RB 1997-NB L 2007-Pulled	0.1	Hole Depth 10-23-2007208.1'
3A1022	4270.98						14	1960-RL 1965-L 1983-L 1988-RB 1995-pump removed	12.7	Pump has been removed

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Well/Pump	SolePlate Elevation	Bowl Set Depth	Bottom Of Screen	Trans Cap	Motor HP	BowlDia	Min. Well Dia	Last Rectification Summary	Yrs since workd on	Remarks
4A823	4341.43	270	292	3-200	350	22.375	24	1959-RL 1977-RB	29.7	
4B823	4341.62	270	279		200	15	24	1962-L 1978-R 1981-RB 1984-R NB	23.4	
4A824	4319.23	260	271.4	3-100	350	24	24	1983-RB,2006-Pul.2007N.B,L	0.7	Airline not calibrated
4B824	4318.61	230	251	3-150	300	18	24	1961-L 1962-DR	45.8	
4C824	4318.52	240	261		150	15	20	1994-D RB	12.8	
5B823	4347.77	300	321	3-150	300	20	24	1961-LR 2004 L	3.7	bowlLength?
5C823	4347.83	280	300		150	17	24	1967-LR	40.4	
5A825	4335.48	250	266	2-167	300	20	24	1963-DL 1984-DL RB 2000-InspectedBowls	6.7	
5B825	4335.75	250	258.2	1-150	250	14.75	18	1963-DL 1994-RB D,L 2006-NB	1.7	
6A824	4346.68	290	298.7	3-150	450	18	20	1957-R 1984-R 1987-RB 1994-NB 2000-RNB	6.7	
6B824	4341.44	280	300.7	3-75	200	18	20	1960-L 1968-R 1988-RB 2004-D-L-RB	3.7	
6C824	4312.44	230	258	3-25	60	10	16	1962-DLR	45.8	
6A825	4303.72	200	212	3-75	200	16	18	1961-DL	46.8	
6B825	4303.79	200	209		100	12	15	1963-DL 1979-R 1982-R	25.8	
6A923	4276.50	200	220	3-100	325	16.5	16	1962-DLR	45.8	
6B923	4256.89	200	208.5	3-37.5	150	15	20	1968-R 2004-DLNB	2.7	
7A824		270	280.9		350	16.92	19	2000-New Well Drilled 2001-LNB	5.7	18" casing
7B824	4290.09			3-100			20	1961-L 1964-DR 1982-RB 2000-closed	7.2	
7A922	4288.06	390	399.7	3-333	450	16.92	20	1963-DLR 1972-L 1981-L RB 2006-Pul.2007-NB.-L	0.6	
7B922	4288.06	330	356		350	17	20	1962-DLR 1983-R	24.8	
8A823	4337.79	280	291.5	3-150	300	16.92	24	1958-RL 1986-L RB 1988-R NB 2001-RNB 2004-R RB	2.6	
8A824	4303.76	223	230.6	3-100	300	18	20	1955-L 1956-R 1957-D 1985-L 1990-NB 1996-RB	10.8	
9A921		360			300		16	2004 New well, NB	3	
9A922	4264.99	281.6	290.75	3-100		12	17	'60-L '63-LR '64-DR '82-R '85-R '89-RB '91-D 1994? Removed-?	13.2	Pump removed
9B922	4268.88	350	385.9	3-75	200	14	16	1960-LD 1962-RD 1963-L 1969-DL- 2006 Pul.	0.7	
9C922	4265.00	320	341		150	12	12	1994-D (NEW) 1995-R L	11.8	
10A823	4315.56	260	272.5	3-50	125	13.375	20	1961-DLR-2007-N.B.-L	0.5	
10B823	4323.50	260	286	3-25		12	19.5	1960-L 1967-R 1982-DL RB	24.8	
10A824	4303.48	210	231	3-100	250	18	24	1958-R 1982-L -2007Pulled.P.	0.1	pump-reg.-22"
10B824	4290.64	200	219	3-50	150	18	20	1968-R 1990-L	16.7	
10C824	4295.44	200	220	3-75	200	17.25	20	Installed 11/5/1960	47	
10A922	4272.04	250	259	3-50		14	18	1961-L 1962-R 1979-R 1991-D 1995-L Removed-?	11.8	Pump removed

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Well/Pump	SolePlate Elevation	Bowl Set Depth	Bottom Of Screen	Trans Cap	Motor HP	BowlDia	Min. Well Dia	Last Rectification Summary	Yrs since workd on	Remarks
11A824	4303.82	220	225	1-380	300	18	20	1961-L 1964-DR 1985-R NB 1996-RB?	11.3	
11B824	4303.94	200	211		100	17	16	1961-DL	45.8	
11C824	4296.45	240	259	3-50	150	18.25	12	1959-L 1960-DR 1982-DL RB 1991-L 1994-DL	12.8	
11A825	4314.41	210	218.3	3-50	150	17	20	1960-L 1962-R 1965-L 2007-R-L	0.2	2-couplings 6-8 tpi, 2 bearings 8-10tpi for 10' ext.
11B922	4264.90	260	269.1	3-100	150	14	16	1960-DLR 1982-LR-NB	25.4	
11C922	4263.72	270	283.4		200	18.92	12	1960-DL 1961-D 1991-L 2004-LNB	2.7	
12A823	4327.20	270	279.2	3-150	300	14	20	1959-LR 1962-R 2003-RLNB	4.6	New column,tube&shaft.
12B823	4327.43	270	288.1		100	14	20	1961-L 2002-LNB	4.6	
12C823	4314.67	270	287.1	3-150	300	16.92	24	1960-DLR 2001-RNBL	5.8	
12D823	4314.67	270	292		150	15	20	1960-L 1982-L 2001-RNBL	5.8	
12A824	4286.20	210	220.9	3-50	150	14.75	20	1960-L 1962-DLR 1989-NB 4/2006-R,D,L	1.6	
12A825	4331.20	220	242	3-200	300	22.5	24	1961-DLR	46.8	
12B825	4331.45	230	239		250	17	17	1961-L 1966-R 1983-DL RB	24.8	
13A824	4295.79	200	215	3-167	300	20	20	1963-DLR 1981-RB	25.8	
13B824	4295.70	200	208		150	17.375	20	1985-DLR RB 1995-R	11.8	
13A825	4300.23	190	204	3-25	75	12	16	1959-DLR	47.8	
14A823	4309.94	260	276.1	3-100	200	18	20	1961-DLR 1988-RNB 2004-LNB	2.7	
14B823	4309.75	260	268.6		150	14	20	1954-D 1985-L 1991-R 2004-LNB	2.8	
14A824	4271.70	180	196	3-75	200	18	24	1958-R 1990-L	16.6	
14C825	4306.82	200	212	3-25	75	12	16	1960-L 1964-DLR 1988-INSPECTED	18.8	
15A823	4318.91	250	272	3-150	300	19	24	1960-L 1961-DLR 1966-R 1977-RB	30.4	
15B823	4318.92	260	273.3		150	14	20	1960-L 1961-L 1966-R 1995-RB 2004-NB	2.8	
15D823	4301.78	230	247	3-25	60	12	20	1961-DLR	46.7	
15A824	4284.52	210	219.3	3-50	150	18	20	1962-R 1968-RB 1982-L 2007-L NB	0.8	
15B824		203	211.2		150	14	0	4/2006-New Installation	1.6	
15A825	4295.25	220	229.5	3-150	300	20	24	1963-DLR 1988-RB-2006 PUL.2007-NB-L	0.7	
15C825	0.00	220	229.5		100	14	0	1958-DR 1993-L 2006-2007R-L	0.5	March 07: all data is what the 15B825 had. Left in, as assuming same pump, bowls, etc will be used in 15C825
15A922	4261.30	300	325	3-37.5	100	12	24		49.8	
15B922	4255.43	330	360	3-37.5	100	12	16	1963-DLR	44.5	
17A823	4304.51	260	282.2	3-100	250	18	20	1961-L 1964-DR 2004-L	3.7	
17B823	4304.54	250	258		150	13	16	1963-L 2003-LRNB	3.5	

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Well/Pump	SolePlate Elevation	Bowl Set Depth	Bottom Of Screen	Trans Cap	Motor HP	BowlDia	Min. Well Dia	Last Rectification Summary	Yrs since workd on	Remarks
17C823	4325.60	280	292.3	3-37.5	150	8	12	1963-L 1997-NB 2004 DLNB	3.5	
17A825	4271.98	160	179	3-75	200	18	20	1961-L 1965-R	42.8	
18A824	4298.36	240	250.1	3-100	400	20	24	1957-R 1960-L 1985-L 1987-R NB 1988-RB 2004-LNB	3.7	
18A922	4252.41	310	323.7	3-150	250	18	20	1961-DLR 1993-L 4/2006-D,L	1.6	Metal in bottom of hole can't drill deeper
18B922	4252.54	320	329.3		200	14	20	1961-L 1965-DR 1993-L 4/2006-R,NB,D,L	1.6	
19A823	4316.88	250	262	3-150	250	18	20	1961-L 1963-DR	44.5	
19B823	4316.92	250	262		125	17	20	1963-DLR 1990-RB	17.5	
19A825	4263.27	180	200.7	3-100	200	20	24	1960-LR 2003-L	3.6	
19B825	4263.27	160	179		150	17	20	1960-LR 1971-R	47.8	
19C825	4269.46	180	217.7	3-100	200	16.92	20	1960-LR 1990-NB 1992-R 3/2006-NB,L	1.7	
19D825	4269.63	180	191		150	14	20	1962-L 1965-R 1985-R NB 1988-RB 1993-L	13.8	
19A922	4253.52	340	351	3-75	200	14	18	1959-D 1966-R 1985-LRD	22.8	
20A922	4259.92						16	62-L 63-R 65-L 79-LR 81-DR 83-R 85-R 95-Removed	12.7	
21A823	4294.89	220	238	1-300	300	20	24	1960-LR	47.8	
21B823		242	249.9		150	12.9	0	2004-New Well, DNB	3.1	
21A824	4274.82	190	196.8	3-100	250	20	20	1959-R 1961-L 1964-DR 1996 NB L	10.8	
21B824	4281.31	200	220	3-75	200	18	20	1961-L 2006-L	1.7	
21A825	4268.69	180	188	3-75	200	18	20	1961-L 1962-DR 1993-NB L	13.8	
22A724	4335.44	242	251	3-25	100	12	16	1960-L 1984-DLR	23.8	
22B724	4341.34	270	294	3-75	250	18	20	1961-DLR 1984-DL RB	23.8	
22C724	4328.99	230	250	3-75	200	18	20	1960-L 1963-R	44.5	
22A821	4267.35	340	363	3-100	300	18	20	1962-DLR	45.8	
22A823	4300.74	250	269.1	3-75	300	17	20	1960-DL 1968-R 1990-RB 2002-RLNB	5.7	
22A824	4273.12	180	197	3-50	150	17	20	1963-LR	44.5	
22A922							10	1969-RB 1994-NB 1994 PUMP REMOVED	12.6	
23A724	4338.81	260	270	3-50	200	14	20	1957-R 1960-L 1961-DLR 1983-RNB 2004-LNB	2.5	
23A823	4306.64	250	263.3	2-100	150	18	20	1958-R 1961-L 1963-DR 1988-RB 2004-LNB	2.8	
23B823	4306.67	250	270.3	1-150	100	15	16	1961-L 1990-NB 2004-LRB	3	
23A824	4279.22	180	201	3-100	250	21	24	1961-DLR	46.8	
23A825	4303.40	220	227.4	3-150	250	20	24	1963-L 1965-R 2006 PULL 2007 N.B.-L.	0.8	
23B825	4303.41	200	221		200	18	20	1965-DLR	42.8	
24A821	4310.07	370	379	3-37.5	100	12	16	1965-L 1978-RB 1984-DR NB 1991-R D 1996-L RB	10.8	

A&B 2796

Well/Pump	SolePlate Elevation	Bowl Set Depth	Bottom Of Screen	Trans Cap	Motor HP	BowlDia	Min. Well Dia	Last Rectification Summary	Yrs since workd on	Remarks
24A823	4280.83	220	242	3-150	250	20	24	1963-L 1984-LR	23.8	
24B823	4280.83	180	198		150	18	20	1963-R	44.5	
24C823	4261.40	200	213.3	3-75	200	14	20	1963-DLR 2002-RNBL	5.8	
24A825	4300.88	210	221	3-50	125	16.92	20	1963-DLR 1985-R NB 1992-DL RB 3/2006-NB	1.7	
25A823	4268.09	180	199	3-25	75	12	20	1958-R 1960-DL 1991-RB	15.8	
26A724	4327.75	250	261.8	3-75	250	16.92	20	1963-L 1965-DR 2002-LNB	4.8	
26B724	4321.55	250	268	3-25	100	12	16	1963-L 1984-DL RB 1989-RB 2002-LNB	4.8	
26A821	4300.94	390	403.8	3-250	300	17.75	20	1963-L 2006 Pul.2007-NB-L	0.7	
26B821	4300.99	390	413		350	17	20	1962-LR 1991-L	6.2	
26A823	4274.43						20	1957-DR 1961-L 1971-R 1991-L 2004-Removed	3.2	
26B823		222	230.4		200	15	0	2004-New Well, DNB	3.2	
26A824	4260.92	160	178	3-75	200	21	24	1963-DLR	44.5	
27A725	4350.19	240	258	3-25	100	12	16	1962-L 1966-R 1983-RB 1990-RB	16.8	
27A823	4293.71	230	245	3-25	200	15	8	1960-LR 1962-DLR 1995-D,RB 2002-NB	4.8	
27B823	4275.51	200	218	3-37.5	100	17	20	1960-LR 1999-NB, R	7.9	
27C823	4284.60	230	240.7	3-50	200	15	20	1962-L 1969-R 2002-LNB	4.7	
28A724	4343.65	270	284.8	3-150	250	16.92	20	1964-L 1984-DLRB 2004-NB	2.8	
28B724	4343.67	250	272		125	14	20	1965-L	42.8	
28A823	4288.23	240	249.2	3-200	300	16.92	24	1962-LR 2004-LNB	2.7	
28B823	4288.38	220	229		200	18	20	1962-DLR 1987-R NB	20.8	
28C823	4283.13	230	238	3-50	150	15	16	1960-LR 1963-R 1982-R 1984-DL RB 2002-RNB	4.8	
28A922	4242.84	300	317.5	3-37.5	100	12	14	1963-DLR 1981-L 1990-NB 97-RB 2004-NB	3	
29A725	4379.08	300	309.3	3-75	200	14	16	1961-DL 1979-RB 1984-DLR 3/2006-NB,L	1.2	
29A823	4294.17	240	244.6	3-150	350	20	20	1961-L 1963-DR-2006 PUL.-2007-N.B.-L	0.3	
29B823	4294.00	230	241		125	16	20	1958-R 1960-R 1961-L 1987-R NB 1990-L	16.9	
29A824	4255.04	180	187.5	3-37.5	150	14	20	1983-LR NB 2007-R.B.-L	0.1	Static Water Surface 10-18-07 152.5
30A724	4368.82	320	336.1	3-167	300	20	24	1960-LR 1990-RB 1991-L 2004-LNB	2.8	
30B724	4368.92	300	318		200	16	20	1960-LR 1965-RNB 2004-L	3	
30A725	4364.74	270	298	3-100	250	18	20	1961-L 1962-DR,2007-L	0.6	
30A822	4291.19	350	365	3-50	200	14	20	1962-L 1982-RB 3/2006-NB,L	1.7	
30A824	4267.59	200	207.2	3-75	125	13.63	20	1960-LR-2006PUL-2007-NB'L	0.7	10-10-06 w.s.--16410" hole depth 256
30B824	4257.08	160	177	3-25	100	14	20	1963-L 1989-RB 1991-D R NB	15.8	
30A922	4239.22	390	412	3-167	400	16	17	1969-LR 1972-LR 1980-NEW PUMP 2001-NB	6.7	

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Well/Pump	SolePlate Elevation	Bowl Set Depth	Bottom Of Screen	Trans Cap	Motor HP	BowlDia	Min. Well Dia	Last Rectification Summary	Yrs since workd on	Remarks
31A724	4357.33	300	314	3-50	200	16.75	24	1963-L 1983-L RB-2006PUL-2007NB.L	0.8	10-23-2006 hole depth 360' water surface 269' 4"
31A725	4322.36	220	235	3-50	125	14	18	1960-R 1961-DL RB 1969-RB 1979-RB	28.1	
31A823	4280.95	230	238	3-75	200	17	20	1958-DR 1962-L 1983-DL RB 1987-RB	20.5	
31A824	4294.13	200	218	3-167	250	20	23	1960-DLR	47.8	
31B824	4294.22	200	218		100	14	20	1962-DLR	45.8	
32A724	4335.70	260	280	3-167	300	21	24	1958-R 1961-L 1991-L	15.7	
32B724	4335.98	240	258		200	20	20	1958-DL 1963-DR	44.5	
32A725	4323.77	240	247.4	3-37.5	150	11.75	12	1958-R 1962-DLR 2004-DLNB	3.8	Hole depth 268'
33A724	4335.60	240	261	3-150	200	18	20	1958-D RB 1961-L 1968-R	39.8	not sure where 1968-R came from
33B724	4335.40	270	278.2	3-25	200	14.25	20	1960-L 1966-R 2004-DLNB	3.6	
33A725	4344.18	250	264	3-75	200	16	18	1958-R 1961-DR 1967-R NB 2001-L	5.8	
33B922	4250.60						21	1961-L 1984-RB DL 1995-pump removed	12.7	Pump has been removed
33C922	4250.71						12	1962-DLR 1981-L 1995-pump removed	12.7	Pump has been removed
34A723	4338.94	290	301.5	3-150	300	20	20	1958-R 1982-DLR 2006Pul-2007-N.B.-L.	0.8	
34B723	4339.13	280	293		150	14	21	1961-L 1983-RL NB 1986-R NB	21.6	
34A724	4323.25	220	239	3-100	250	18	24	1965-R 1988-RB 2007-Pulled	0.1	Lateral does not go completely down. When lateral is in running position top of shaft to top of lateral nut is 2 5/8"
34A725	4352.61	260	282	3-75	300	17	20	1971-R 1984-DL RB	23.8	
34A823	4273.38	180	198	3-37.5	100	17	18		50.8	
35A724	4328.37	240	260	3-150	250	20	24	1961-DL 1963-R 1982-L	25	
35B724	4328.40	240	239		125	17	20	1961-DL 2005-L	2.2	
35A821	4264.56	340	365	3-100	250	17	20	1962-L 1964-R 1970-R 1975-RB 1976-R 86-R 97-NB	9.8	
35B821	4283.20	360	379	3-200	300	17	20	1982-D RB 1984-L	23.8	
35C821	4283.20	360	375		300	17	20	1963-DLR	44.5	
35D821	4265.89	363.3	373.7	3-100	350	14	20	1965-DLR 1969-R 5/2006-NB,L	1.5	
35A822	4297.95	230	246	3-150	300	20	14	1983-DL RB	24.8	
35B822	4298.12	240	252		150	17	18	1965-DLR	42.8	
35C822	4331.13	280	304	3-37.5	100	15	14	1961-L 1970-R 1983-DL RB	24.8	
35A823	4275.78	200	215	3-75	250	17	18	1964-DR 1985-L	22.9	
35B823	4275.64	200	214.9	3-25	50	11	16	1962-L 1996-L NB 1997-NB	10.8	
35C823	4274.19	200	209.9	3-37.5	100	14	20	1962-L 1983-RB 1996-L NB 1999-RB	8.4	
35D823	4273.10	190	207	3-25	50	12	16	1960-L 1961-DL 1997-NB	9.8	

A&B 2798

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defined as any ground water basin or designated part thereof which the Director of the Department of Water Resources has determined may be approaching the conditions of a critical ground water area.

8. On October 7, 1994, the "Rules for Conjunctive Management of Surface and Groundwater Resources" (CM Rules or Rules) were promulgated by the Director of IDWR.

9. The CM Rules provide the procedures for responding to delivery calls "made by the holder of a senior-priority...ground water right against the holder of a junior-priority ground water right in an area having a common ground water supply." The ESPA is a common ground water supply from which A&B and junior water right holders divert water.

10. On March 5, 2007, the Idaho Supreme court filed its Opinion No. 40, in which it found the CM Rules to be constitutional under a facial challenge and that the Rules incorporate Idaho law by reference and to the extent the Constitution, statutes and case law have identified the proper presumptions, burdens of proof, evidentiary standards and time parameters, those are a part of the CM Rules.

11. That in times of shortage, there is a presumption of material injury to a senior by the diversion of a junior from the same source, and the well-engrained burdens of proof. Evidence of a shortage and resulting injury includes:

- a. A&B has made major investment in infrastructure and efficiency improvements to remain viable with the shortage caused by declining ground water levels. A&B and it's landowners have invested heavily to increase efficiency and 96.5% of A&B's lands irrigated with ground water are irrigated with sprinklers and A&B has converted conveyance structures in many areas from open lateral to pipeline. A&B has

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3 been required to upgrade pump and pipe distribution systems, and has been required to
4 increase the size of the pump motors at many wells to provide the power needed to lift
5 ground water from ever-deeper levels. The combined total motor upgrades for all wells
6 is 3,845 hp. A&B has also been required to endure costs from significant alteration of
7 conveyance systems to bring water from new wells into the conveyance system and to
8 decrease conveyance losses. During 1995 through 2006, A&B has expended
9 approximately \$152,000 per year for well rectification efforts to divert water from the
10 declining aquifer, and has expended in the years 2002 through 2005, approximately
11 \$388,205 per year in drain well rectification, and reductions in operational waste to
12 increase water supplies to meet a part of the shortages occurring as the result of declining
13 ground water tables. Since 1980, and primarily since 1994, A&B has made numerous
14 attempts to solve the reduction in ground water irrigation supply caused by declining well
15 yields. A&B drilled 8 new wells to replace wells that would no longer provide an
16 adequate water supply as the result of the lower ground water tables, has deepened 47
17 wells, has replaced the bowls on 109 pumps in wells that are now pumping from
18 substantially lower water levels, 137 pumps have been lowered to increase their capacity
19 as a result of declining ground water tables, and 7 wells have been abandoned because
20 they no longer provide adequate water. Deepening of wells with declining well yield
21 problems (caused by falling ground water levels) has not provided an appreciable
22 rectification of declining well yield, and since 1994 the total water supply from the A&B
23 wells has declined to 970 cfs. Many of the wells that have been drilled deeper, some to
24 depths of 800 feet, because of the low transmissivity and low well yields deeper in the
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28 MOTION TO PROCEED

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aquifer, do not produce additional water. All of these issues cause A&B to suffer water supply shortages during peak demand periods.

b. From the annual measurement by A&B of approximately 150 of the 177 wells which divert water under Water Right No. 36-02080, it has been determined that there has been a decline since 1999 of over 12 feet in ground water levels over the district, on the average, and a decline of over 22 feet on the average since 1987. Total ground water declines within the district boundaries since the early 1960s generally range between 25 to 50 feet. The trend in ground water declines has become stronger and more pronounced which indicates that the declining ground water level problem is worsening.

c. Diversions authorized under Water Right No. 36-02080 are necessary for the irrigation of lands receiving water under that water right, and the methods of diversion and use are consistent with the irrigation practices for the region, but A&B lands served by ground water diverted under A&B's right continue to suffer significant water shortages, seriously affecting the economic use and employment of farm land within A&B that receive irrigation water from the ESPA for the growing of diverse crops.

d. That the decreed diversion rate under A&B's ground water right is necessary to provide a reasonable quantity for the beneficial use of the water in the irrigation of lands within A&B. Because of the shortages suffered by junior pumping interference and declining ground water levels, A&B is unable to divert an average of 0.75 of a miner's inch per acre which is the minimum amount necessary to irrigate lands within A&B during the peak periods when irrigation water is most needed. A&B was

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able to deliver at least 0.75 of a miner's inch prior to the major impacts caused by junior ground water pumping. Ground water pumping records show that during the mid 1960s A&B was able to pump about 225,000 acre-feet per year. During the last decade, A&B ground water pumping has dropped to as low as 150,000 acre-feet per year. A&B is presently being denied its ability to economically provide adequate irrigation water for lands served with ground water. A&B will continue to suffer water shortages and these shortages will become more severe as ground water levels in the ESPA continue to decline, notwithstanding reasonable efforts by it to divert adequate water from the lower level of the aquifer, until such time as the aquifer level declines are remedied through administration of junior priority ground water rights and the adoption and implementation of a ground water management plan whereby ground water levels may be restored and maintained.

e. That additional effort and expense by A&B to divert the quantity of water to which it is entitled is not economical and would be an unreasonable requirement, and in most instances impossible to obtain as a result of the impacts and injury caused by junior ground water diverters that have created multi-year accumulations of water deficiencies in the ESPA, to serve the senior water rights of A&B.

f. The IDWR, by use of the Eastern Snake River Plain aquifer model that has been developed, can provide technical information that will be useful to the Director in meeting his obligation to delivery water to senior appropriators. One scenario entitled "Sources of Drawdown Beneath the A&B Irrigation District" and the analysis therein indicates that up to 84% of the ground water declines experienced at A&B are due to the

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effects of ground water pumping from others. Other scenarios using the ground water model, such as the "Curtailment Scenario" show that curtailment of junior ground water diversions is an effective management strategy to reduce the declining ground water levels in the aquifer.

g. The ground water supply from the ESPA is not sufficient to meet the water demands of A&B under its senior ground water rights as well as all junior ground water rights within the ESPA. Most of the other ground water diversions, which are depleting the ESPA water supply and reducing the ability of A&B to meet its demand, are primarily diversions by those with junior ground water rights to the water rights of A&B.

h. A&B has no other source or supply of water to replace its lost ground water supply needed to irrigate Unit B land. Even if surface water was available, it would not be economically feasible to deliver such water to the lands now being irrigated with ground water within A&B. To the extent conversion to surface water has been possible, it has been done, being required because of the lack of ground water supplies at any depth to irrigate these lands.

i. That the ground water levels presently existing within the ESPA are below the reasonable ground water pumping level, and A&B is entitled to be protected in the maintenance of reasonable ground water pumping levels established by the Director of IDWR, and the Director should order those water right holders on a time-priority basis, within the areas determined by the Director, to cease and reduce withdrawal of water until such time as the Director determines there is sufficient ground water.

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j. There are no post-adjudication circumstances or unauthorized changes in the elements of A&B's partial decree under Water Right No. 36-02080.

12. There is clear and convincing evidence that the ESPA may be approaching the conditions of a critical ground water area, which is clearly established by the following facts, to-wit:

a. Scientific studies by many agencies show that the ESPA is hydraulically continuous and provides one common water supply to ground water users, spring flow users and natural flow users with varying order of priority. The use of the aquifer by junior ground water pumpers affects all water users dependent on the common water supply of the ESPA. The average annual rate of diversion from the ESPA (including ground water pumping, the discharge from the Thousand Springs area and other springs to the Snake River) has exceeded the average annual rate of recharge, resulting in a decrease in aquifer storage and declining ground water levels.

b. Hydrographs of ground water levels in the ESPA collected since the 1960s show evidence of severe and persistent declines that are not the result of short-term droughts. These declines have become worse as ground water pumping has increased. The declining trend in ground water levels has become worse with every decade since 1960. These hydrographs show that the aquifer is not able to support all of the permitted ground water uses.

c. It is possible to predict the amount of reduction in discharges from the ESPA or the increase in recharge necessary to stabilize the ground water tables at a reasonable pumping level. Analyses have been completed using Version 1.1 of the

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ESPAM Ground Water Flow Model developed by IDWR and IWRRRI showing that declining ground water levels, spring flows and the Snake River reach gains can be stabilized by reducing ground water pumping.

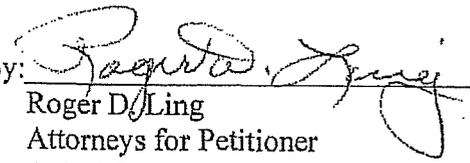
d. In the absence of meaningful management, aquifer levels will continue to decline under present conditions, and such declines will cause additional material injury to A&B by decreasing its ground water supply in even greater amounts than now being experienced. This will undermine the entire system of water administration by priority water rights.

e. The ESPA is a ground water basin that is approaching, or has reached, the conditions of a critical ground water area. It is therefore required under Idaho Code § 42-233b that the ESPA, or such designated part thereof, should be designated by the Director as a "ground water management area."

13. That there have been unnecessary delays in the delivery of ground water to petitioner A&B and in taking action to insure future delivery to petitioner A&B of ground water under its valid senior ground water rights.

DATED this 16th day of March, 2007.

LING, ROBINSON & WALKER

By: 
Roger D. Ling
Attorneys for Petitioner
A & B Irrigation District

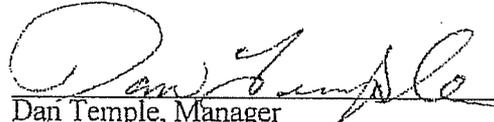
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VERIFICATION

STATE OF IDAHO)
County of Minidoka) ss.

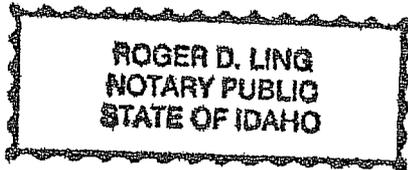
Dan Temple, Manager of A & B Irrigation District, being first duly sworn on his oath, deposes and states:

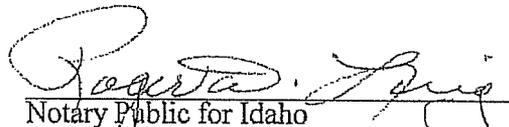
That he is the Manager of A & B Irrigation District, petitioner in the above-entitled matter, that he has read the above and foregoing *Motion to Proceed*, knows the contents thereof, and the facts stated he believes to be true.


Dan Temple, Manager
A & B Irrigation District

SUBSCRIBED AND SWORN to before me this 16th day of March, 2007.

(SEAL)




Notary Public for Idaho
Residing at: Rupert, Idaho
My Commission expires: 10-30-2012

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

Exhibit D

EXHIBIT D

SNAKE RIVER BASIN WATER RIGHT ADJUDICATION

by

David B. Shaw

Idaho Department of Water Resources

August 1988

Recent History

In 1982 the Idaho Supreme Court handed down its decision in the Idaho Power Company v. Idaho Case involving Idaho Power Company's water rights at Swan Falls Dam. The court ruled that the water rights at Swan Falls had not been subordinated by the 1950's era agreement which allowed Idaho Power Company to build the Hells Canyon hydroelectric complex as had been asserted by the state. This ruling by the court meant the state of Idaho went from a partially appropriated to an overappropriated water system on the Snake River.

Attempts were made during both the 1983 and 1984 Idaho legislative sessions to resolve the conflict that existed between upstream development interests and the supporters of Idaho Power and instream flow interests. A legislative solution was not reached and a legal cloud existed over the status of thousands of Snake River water rights. In addition, new development could not proceed since unappropriated water was not available in the Snake River and its tributaries if Idaho Power's hydropower water rights were to be satisfied.

In 1984 the state, through the Governor and the Attorney General, and Idaho Power were able to agree to negotiate a settlement to the Snake River water rights conflict. Incentive to solve the conflict by negotiations came from the recognition that a solution was necessary and the anticipated delay, expense and uncertainty that would be involved in a litigated solution.

After much effort by all parties involved, the negotiations were successful and the Swan Falls Agreement, which resolved the conflict with the Idaho Power's water rights from Swan Falls upstream, was signed on October 25, 1984. Included with the agreement among other requirements was a requirement to adjudicate the water rights in the Snake River Basin.

The Adjudication Process

The term "adjudicate" means to settle judicially. A water right adjudication should be termed "a fair, comprehensive, technically correct and legally sufficient determination (identification and quantification) of existing water rights". In Idaho adjudications are conducted by the court and the Department of Water Resources acts as a technical expert for the court in conducting investigations of existing water rights. The department has extensive responsibilities spelled out by statute, to the state and the court in water right adjudications.

On June 17, 1987 the Director of the Department of Water Resources filed a petition in the District Court of the Fifth Judicial District in Twin Falls to commence the Snake River Basin Adjudication. The Honorable Daniel C. Hurlbutt, Jr. set a hearing on the commencement petition for September 8, 1987 in Twin Falls. The director's petition proposed to adjudicate the Snake River Basin upstream from and including the Salmon River drainage.

The court, in its commencement order of November 19, 1987 determined the Boise, Weiser, Payette and Lemhi Basins should be included in the adjudication and the adjudication should be extended downstream to include the remainder of

the Snake River in Idaho and the Clearwater Basin. An appeal of the inclusion of the Boise and Weiser River drainages is currently being considered by the Idaho Supreme Court.

The district court has entered an order establishing procedures to be followed by anyone wishing to make filings with the court. Anyone wishing further information as to the procedure may contact the department.

The department has begun soliciting notices of claims to a water right from water users in the Snake River Basin. Because of the size of the basin to be adjudicated water users are being notified by counties of the need to file their claims. After notification water users have 90 days to complete their claims and file them with the department. Department staff are available if assistance is desired. The department also has available existing water right records, maps and aerial photography to assist with the claims taking process.

Department staff will compare water rights claimed with known water uses to be certain the water rights claimed are complete and accurate. Investigation of water uses will be conducted using available data, computer and satellite technology as well as field inspections. Investigations will also be conducted to determine land ownership, so land owners who have not claimed water uses identified by the department can be notified of their duty to file a claim for their water use.

At the completion of the investigation, the department will compile a report of water rights for the court. This report will identify the elements of each water right so that the right can be properly identified as a property right as well as quantified for proper delivery of water.

Those water rights that have been previously decreed will be reaffirmed and updated by the Snake River Adjudication. Since some older decrees do not identify all the elements necessary to properly deliver a water right, the Snake River Adjudication will make the ownership of these rights more secure through their proper identification as they exist today reflecting the changes that have taken place since the original decrees were completed.

As the adjudication proceeds, claimants who disagree with the findings of the department will be urged to meet with the department to resolve those differences. If the differences between the department's determination and claimant's view of his water right cannot be resolved, the question will ultimately be settled by the court.

Federal Water Users To Be Included

Under the 1952 McCarran Amendment, the U.S. Government can be joined in a state court action for the purpose of adjudicating water rights. The state court, after the commencement hearing, has determined the extent of the area to be included to obtain "general adjudication" jurisdiction over the U.S. Government as required by the McCarran Amendment.

The state of Idaho, through the Idaho Water Resource Board, has entered into and will continue negotiations with the Shoshone-Bannock Indian Tribes to determine the extent of the Tribes federally reserved water rights for the Fort Hall Reservation. A negotiated determination of the Tribes water rights could save years of litigation and millions of dollars in the time and cost of the Snake River Basin Adjudication.

Other Indian tribes and federal agencies holding land reservations in Idaho have been contacted regarding the negotiation of their reserved water rights. Contacts with these entities are continuing and further negotiations are anticipated and will proceed concurrently with claims filing for state acquired water rights from private water users.

Effect of the Decree

The new decree will provide for the identification and security of ownership of water rights that has not been available since the early 1900's if ever. The decree will be binding on all water users and will identify the water rights as they exist today. This will minimize future challenges against those water rights as long as the rights continue to be used according to law.

The Snake River Basin Adjudication will be the largest adjudication attempted to date in Idaho and probably the largest in the nation. Thus far, the state has adjudicated other rivers including the Payette River Basin in which more than 9,000 water rights were decreed. The extent of the Snake River Basin Adjudication proposed in the court's commencement order may result in the determination of as many as 185,000 water rights. A two year effort has begun to take the claims of 185,000 water users.

The adjudication of the Snake River water rights will be a time consuming, costly effort for the state and water users. This adjudication is essential, however, to provide the state with a key element required to manage and regulate this valuable resource in the future.

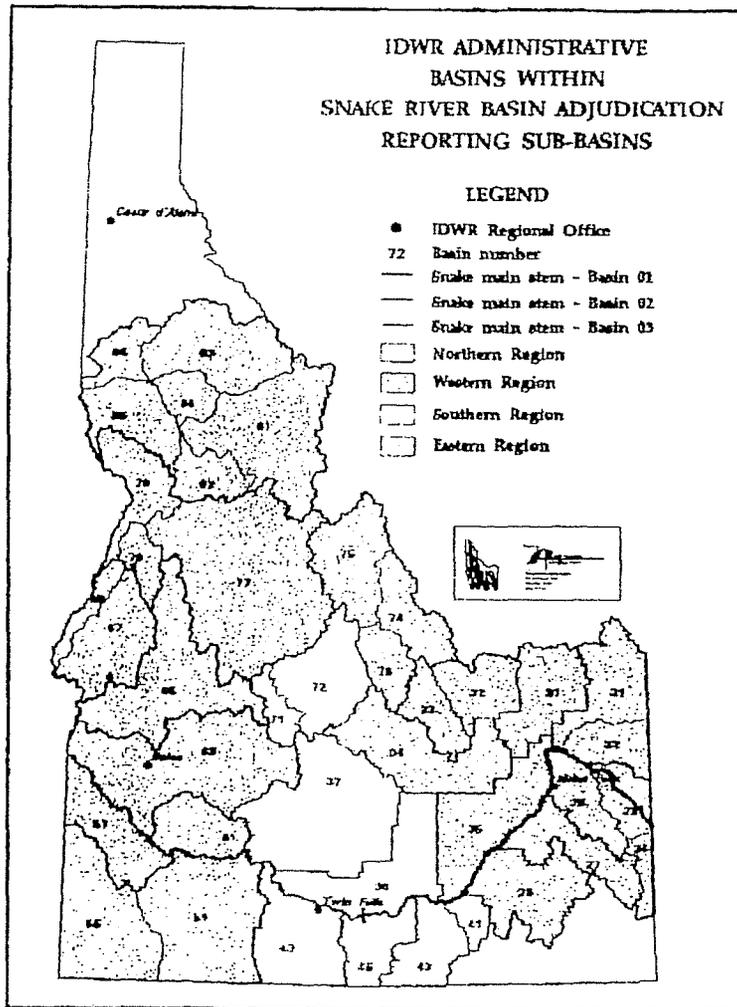
If you have questions about the Snake River Basin Adjudication you may contact the Water Resources office nearest you or the Water Resources State Office at 334-7906.

Exhibit

E

EXHIBIT E

1994 INTERIM LEGISLATIVE COMMITTEE
ON
THE SNAKE RIVER BASIN ADJUDICATION



SENATE MEMBERS

Senator Laird Noh, Cochairman
Senator John Hansen
Senator Stan Hawkins
Senator Cecil Ingram
Senator Marguerite McLaughlin
Senator Clair Wetherell

HOUSE MEMBERS

Representative Golden Linford, Cochairman
Representative Jack Barraclough
Representative Maxine Bell
Representative Jim Christiansen
Representative Al Johnson
Representative Bruce Newcomb

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 FOR
 1994 LEGISLATIVE COUNCIL COMMITTEE REPORT
 ON
 THE SNAKE RIVER BASIN ADJUDICATION

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I. CHARGE TO 1994 LEGISLATIVE COUNCIL COMMITTEE ON THE SNAKE RIVER BASIN ADJUDICATION

House Concurrent Resolution No. 70 directed the Legislative Council Committee on the Snake River Basin Adjudication to study and report back to the 1995 Idaho Legislature on the following matters:

1. Methods of funding the Snake River Basin Adjudication;
2. Measures that can be taken to facilitate the participation of small claimants in the Snake River Basin Adjudication;
3. Means for spreading the cost of the resolution of basin-wide issues; and
4. Actions the Legislature should take to facilitate the development of a long-term management plan for the administration of surface and ground water supplies in Idaho.

The Committee met five times to consider these matters. Testimony was received from the claimants, the private attorneys, the Idaho Department of Water Resources (IDWR) and the judiciary. The following report summarizes the Committee's findings and recommendations.

II. REASONS FOR THE ADJUDICATION

Although the Snake River Basin Adjudication (SRBA) was authorized as part of the legislation enacted in 1985 to settle the Swan Falls water rights dispute between the Idaho Power Company and the State of Idaho, the genesis of the adjudication came from a report of the Snake River Technical Advisory Committee. This Committee consisted of fifteen members representing state and federal water resource agencies, the Idaho Public Utilities Commission, consulting hydrologists, Idaho Power Company, the Idaho Water and Energy Resources Research Institute and the Swan Falls Water Rights subcommittee of the Legislative Council. The purpose of the Committee was to "determine the scope and priority of needed hydrologic studies required to assist in planning, management, water rights administration, regulation and litigation of the Snake River system in Idaho above Swan Falls." *Needed Water Resources Programs in the Snake River Basin* at 1 (1983). The Technical Committee recommended initiation of a general stream adjudication for the following reasons:

If water resources in the Snake River Basin are to be managed for maximum beneficial use within the constraints of the Constitution, laws of the State and new directives of the legislature, the priority of those rights must be established. There are presently a number of decrees affecting surface and ground water tributary to the Snake River Plain. These decrees were created and operate in a vacuum. They do not acknowledge the existence of other tributaries they may affect or rights listed in the decrees are or may be subordinate to other rights not listed. These decrees are not effective vehicles for management of the entire system.

The procedure to quantify all rights to use waters of the Snake River system within Idaho is a general adjudication pursuant to I.C. Section 42-1406, et seq. This statute permits the State to require the federal government to quantify its reserved rights, in addition to permitting the quantification of statutory claims. Delay could cause piecemeal adjudication of federal claims in federal court.

Id. at 35 (1983).

The federal reserved water rights need to be adjudicated because they are a cloud over all other water rights and threaten to undo any water planning done by the state. The federal reserved water rights doctrine arises from *Winters v. United States*, 207 U.S. 564 (1908). In *Winters*, the United States Supreme Court held that when Congress establishes an Indian reservation, it also impliedly reserves sufficient water to achieve the purposes for which the reservation was created. This judicial doctrine was extended to other federal reservations of lands in *Arizona v. California*, 373 U.S. 546 (1963). Because these rights have never been quantified and are not subject to state beneficial use requirements, they constitute a threat to all state water rights junior in priority to the reserved water rights. Moreover, any state water planning is suspect for the same reason.

III. HISTORY OF THE SNAKE RIVER BASIN ADJUDICATION

A. *Description of the Hydrology of the Snake River*

The Snake River is one of the great rivers of the western United States. It rises along the continental divide near Yellowstone and Grand Teton National Parks in Wyoming, and travels across southern Idaho in a broad crescent. Along the way it joins with such rivers as the Henry's Fork, the Blackfoot River, the Big Wood River, the Bruneau River, the Boise River and the Payette River. At the western boundary of Idaho, the Snake River completely leaves the State of Idaho and flows into the State of Oregon for a short distance and then turns north. The Snake River forms the boundary between Idaho and the states of Oregon and Washington while passing through the nation's deepest gorge, Hells Canyon. Along the way the Salmon River, the fabled "River of No Return" of the Lewis and Clark expedition, drains into the Snake River from the huge wilderness of central Idaho. Further north, the Clearwater River flows into the Snake River near Lewiston where the Snake River leaves the state. The total land area upstream from this point encompasses approximately 87% of the total land area of the state.

The Snake River Plain is a broad crescent-shaped plain extending from Ashton, Idaho, in the east to Weiser, Idaho, in the west. The plain is from 30 to 75 miles wide and is bordered or intersected by the main stem of the Snake River. The plain is divided geographically into an upper and lower plain with the dividing line roughly located at King Hill, Idaho.

The Upper Snake River Plain is underlain by a large aquifer which is hydraulically connected with the Snake River at various points from Heise to Thousand Springs. At some points, the Snake River supplies the Snake River Plain Aquifer with water, and at other points the

reverse happens. The most significant interchanges occur at American Falls and Thousand Springs. The Snake River Plain Aquifer currently discharges about 2,500 cubic feet per second (cfs) of water to the Snake River at American Falls and about 5,000 cfs at Thousand Springs.

The discharge of the Thousand Springs has been estimated for the period 1902 to 1993. In 1902 the average discharge of the Thousand Springs was slightly more than 4,200 cfs. In 1913 the annual discharge of the springs began to show a significant increase, a trend that generally continued until the late 1940's. From the late 1940's until the mid 1950's the annual average discharge of the springs continued to increase, on the average, but at a lower rate than had occurred during the past 35 years. The peak annual average discharge of the springs during this period occurred in 1957 with an average flow of slightly less than 6,900 cfs. After 1957, the annual average discharge of the Thousand Springs began to decrease, on the average, with an annual average discharge of over 5,000 cfs in 1993.

The generally accepted explanations of these changes in the flow of the Thousand Springs are that irrigation diversions to the north side of the Snake River provide ground water recharge that increases the flow of ground water discharged from the springs. Conversely, ground water withdrawals on the Snake River Plain divert water that otherwise would flow into the Snake River at Thousand Springs. The three year study of the Snake River Plain Aquifer will provide a better understanding of the relationship between diversions from ground water on the Upper Snake River Plain and the discharge from Thousand Springs to the Snake River.

The springs in the American Falls reach of the Snake River also augment the surface flow of the Snake River. These springs have been affected by upstream surface diversions and by diversions from ground water for that portion of the Snake River plain tributary to the Snake River above Milner Dam.

Other factors also influence the American Falls and Thousand Springs discharges to the Snake River. The United States re-authorized the construction of Palisades Dam and Reservoir in 1950. A provision of the authorizing legislation required that the Secretary of the Interior undertake a program to provide for an average annual savings of 135,000 acre-feet of surface water in the winter that was then being diverted for stock water and other uses. The legislation contemplated that users would replace these surface diversions with diversions of ground water. The Secretary of the Interior entered into contracts with various water user organizations to achieve this winter surface water savings, which permitted a more reliable refill of the reservoirs. These changes in water management caused a substantial annual depletion of water recharge to the Snake River Plain Aquifer.

Finally, the State of Idaho has experienced seven years of drought in the last eight years. Because of the drought, water users on the Snake River Plain and elsewhere have relied more heavily on ground water sources. The greater withdrawals from ground water have contributed to a further depletion of surface flows in the Snake River below Milner Dam.

B. *The Development of Hydropower*

In the 1920's, the federal government encouraged a massive expansion of hydroelectric facilities by enactment of the Federal Power Act. Since hydroelectric facilities require large amounts of water, the United States Department of the Interior realized there would be a conflict over the use of the state's limited water supply for the additional hydroelectric facilities. Thus, the Department of the Interior adopted a policy of requesting the Federal Power Commission to subordinate hydropower water right licenses for hydroelectric facilities to upstream consumptive uses.

Historically, the state also maintained that hydropower water rights should be subordinated to upstream consumptive uses. This policy was placed into article 15, section 3 of the Idaho Constitution in 1929 and reflects the philosophy that the limited waters of the state should be used to the maximum extent possible before the waters flow out of the state. The policy resolves the inconsistency created by use of water for power purposes and the prior appropriation doctrine. Without subordination, a senior downstream appropriator for a hydropower use could monopolize the entire water supply.

During the period from 1945 to 1965 the United States Bureau of Reclamation and Idaho Power Company competed to build hydroelectric facilities on the Snake River downstream of Weiser. The Bureau of Reclamation proposed a single, large dam. Idaho Power Company proposed three smaller dams. A major issue in the dispute concerned the subordination of the hydropower water rights to upstream depletion by irrigation uses.

R. P. Parry, counsel for Idaho Power Company, testified during the Federal Power Commission licensing hearings for the Hells Canyon hydroelectric facilities as follows:

Historically, the applicant has always conceded that water rights for future irrigation development shall have precedence over hydroelectric water rights. All water licenses being currently issued by the State of Idaho provide specifically that this shall be true. And it is obvious that this Commission would not authorize any project without making the same requirement.

Minutes of Federal Power Commission, *In the Matter of Idaho Power Company, Project Nos. 1971, 2132, 2133* at 1240 (July 1953). Until 1977, officers of Idaho Power Company continued to take this legal position. Based on these representations, the Federal Power Commission, at the request of the State of Idaho, included a provision in the Federal Power Commission license that subordinated the operation of the facilities in the Hells Canyon hydroelectric complex to the upstream depletionary uses.

This policy of subordination of Idaho Power Company's water use to upstream development, however, was not fully reflected in the Company's state water rights. Some of the state water rights for the Hells Canyon hydroelectric complex, which includes three dams on the Snake River, did not contain an express subordination provision. Moreover, the state water rights for other mainstem Snake River hydroelectric facilities upstream from Hells Canyon Dam

did not include subordination provisions. The absence of subordination provisions in the Company's water rights for the Swan Falls Dam located south of Kuna provided the basis for the Swan Falls dispute.

C. *The Development of Irrigated Agriculture from 1955-1975*

The combination of cheap hydroelectric power and better pumps created a boom in irrigated agriculture in southern Idaho. Private development added an average of 50,000 irrigated acres a year during this period. This development occurred on the Snake River Plain by pumping ground water and downstream of Milner Dam by high lift diversions of surface water from the Snake River. Because these users expanded the market for its power, Idaho Power Company actively encouraged this development of irrigated agriculture despite the fact that such development reduced the amount of water available to fill its water rights.

D. *The Addition of Idaho Constitution Article 15, Section 7*

In 1963, water developers in California proposed the diversion of water from the Snake River near Twin Falls to a tributary of the Colorado River for re-diversion to Los Angeles at existing downstream diversion facilities on the Colorado River. The reaction in Idaho was swift. Governor Smylie concluded that Idaho's water would never be safe from outside interests until it was put to use in the State of Idaho. Therefore, he proposed that the Legislature create a constitutional water agency with the responsibility to formulate and implement a water plan for the State of Idaho. Idaho voters ratified the proposed constitutional amendment at the general election on November 3, 1964.

E. *The Swan Falls Water Rights Dispute and its Settlement*

Idaho Power Company's service area experienced substantial growth in electrical demand from late 1960 to early 1970. Economic projections indicated a continuation of this trend. This growth prompted Idaho Power Company to propose construction of the Pioneer coal-fired facility south of Boise. This project was opposed by many ratepayers and ultimately led to the filing of a complaint in 1977 with the Idaho Public Utilities Commission that alleged Idaho Power Company had not protected its water rights from upstream junior depletionary uses. The ratepayers requested that the Commission provide rate relief as a consequence. The Commission stayed action on the complaint to give Idaho Power Company an opportunity to clarify its water rights.

Idaho Power Company filed an action against a small number of junior water users upstream from the Swan Falls Dam for the purpose of determining whether its water rights for the facility were unsubordinated. The District Court concluded that the Federal Power Commission licenses for the Hells Canyon complex had subordinated Idaho Power Company's rights at all of its other hydroelectric facilities upstream. In 1983, the Idaho Supreme Court reversed the District Court and remanded the matter back for trial on whether Idaho Power Company had forfeited, abandoned, or lost its water rights under other equitable theories.

Idaho Power Company then filed a new complaint seeking a determination that its state water rights for its hydroelectric facilities upstream from Hells Canyon Dam were prior in right to about seven thousand, two hundred water users. A vote in the Idaho Legislature to subordinate Idaho Power Company's water rights for these hydroelectric facilities failed. This failure provided an incentive for the State of Idaho to pursue actively both litigation and negotiation of the dispute. The Attorney General prepared for trial by conducting further discovery and further investigation into the actions and representations of Idaho Power Co. in securing its FERC licenses for the Hells Canyon hydroelectric facilities. Governor Evans in the summer of 1984 asked Jim Bruce, CEO of Idaho Power Company, and Attorney General Jim Jones to begin settlement discussions.

In October, 1984, the State of Idaho and Idaho Power Company entered into a settlement agreement regarding the entire Swan Falls water rights dispute. The State agreed to establish higher minimum flows in the Snake River of 3,900 cfs during the summer and of 5,600 cfs during the winter at the Murphy gage, which is located downstream from the Swan Falls Dam. The State also agreed that the water rights for Idaho Power Company's various hydroelectric facilities up to the amount of these minimum flows are unsubordinated. The Company agreed that its water rights above these minimum flows are subordinated to upstream use; however, the agreement permits the Company to use any water in the river up to the amount authorized by its state water rights subject to the requirements of beneficial use and the water right license conditions. The agreement incorporated the recommendation of the Snake River Technical Committee that the State of Idaho commence an adjudication of the water rights in the Snake River Basin. Finally, the agreement established a procedure for the allocation of the so-called trust water made available by the subordination of a portion of the Company's water rights. Conditions on the effectiveness of this agreement included actions by the Idaho Public Utilities Commission, the Idaho Legislature, and the Federal Energy Regulatory Commission (FERC).

The Boise Field Office of the Fish and Wildlife Service, U.S. Department of the Interior, opposed the approval of the Swan Falls Agreement by the FERC. It argued that the Fish and Wildlife Service managed islands in the Snake River that were part of the Deer Flat National Wildlife Refuge and that the islands would lose their value as habitat for nesting geese. It alleged that the flows included within the Swan Falls Agreement would allow land based predators to destroy goose nests and that the United States held a federal reserved water right that precluded such low flows. These claims delayed FERC action to approve the necessary amendments to the various FERC licenses.

The parties addressed this concern by seeking federal legislation directing the FERC to approve the settlement. While the Act of December 29, 1987, Pub. L. 100-216, 101 Stat. 1450, directed the FERC to enter the required order, Congress responded to the concerns of the Fish and Wildlife Service by funding a study of the effects of the Agreement on fish and wildlife. As a result of the study, the United States produced the following reports:

Swan Falls Instream Flow Study, (October 1992)

Swan Falls Instream Flow Study. Annotated Bibliography, (October 1992)

B. Zoellick & H. Ulmschneider. *Effects of the Swan Falls Water Agreement on the Snake River Islands of Deer Flat National Wildlife Refuge, (June 1993).*

Simulation of Water Surface Elevations for the Snake River in the Deer Flat National Wildlife Refuge, Idaho, U.S.G.S. Water-Resources Investigations Report 91-4198.

Reserved water rights claims filed by the United States for the Deer Flat National Wildlife Refuge in the SRBA are based upon these reports.

For its part, the Idaho Legislature implemented the Swan Falls Agreement by enacting legislation that directed the commencement of the Snake River Basin Adjudication. The legislation also required that the adjudication satisfy the requirements of the McCarran Amendment, 43 U.S.C. § 666, and included a funding mechanism for the adjudication by charging a flat filing fee for all claims and an additional variable fee for certain types of claims. The fees collected were intended to fund the entire adjudication effort. The fee schedule was developed by an ad hoc committee that included representatives of the federal government. The Bureau of Reclamation informed the committee that it would pay any required filing fees associated with the adjudication. An opinion from the Regional Solicitor's office for the United States Department of the Interior supported this statement.

F. *Amendment of Idaho's Adjudication Statute in 1986*

An ad hoc committee was formed in 1985 to review and improve Idaho's laws regarding water right adjudications. The committee included legislators, an attorney from the Shoshone-Bannock Tribes, persons representing private water user groups, and various state personnel. The purposes of this legislation were "to provide a statutory basis for incorporating a negotiated agreement between a federal reserved water right claimant and the State of Idaho into an adjudication, to provide a more efficient method for adjudications, to assure that state laws and procedures provide a fair and impartial forum for the adjudication of the rights of all claimants, and to assure that state laws and procedures are adequate as a matter of federal law to adjudicate the rights of all federal reserved water right claimants." 1986 House Journal at 236.

The 1986 amendments made procedural changes to the existing laws and rules governing the conduct of general adjudications in Idaho's district courts. These changes include detailed requirements regarding the contents of a petition for a general adjudication, service of process on claimants and filing of notices of claim and objections to notices of claim.

G. *Negotiation of Federal Reserved Water Right Claims*

The Shoshone-Bannock Tribes of the Fort Hall Indian Reservation expressed concern to the Idaho Legislature about the proposed adjudication. They pointed out that litigation of federal reserved water right claims for Indian reservations had proven to be very expensive and divisive in other states. They asked the Legislature to adopt a policy favoring negotiation of federal

reserved water rights rather than a policy of litigation. The Idaho Legislature responded by adopting H.C.R. No. 16, 48th Idaho Legislature, First Regular Sess. (1985), which directed the Governor and the Attorney General to enter into negotiations with federally recognized Indian Tribes concerning the extent of the water rights of those Tribes. The Governor designated the Idaho Water Resource Board to be the lead agency in the conduct of the negotiations. The scope of the negotiations was later expanded to include federal reserved water right claims of various federal agencies, in addition to claims made on behalf of Indian Tribes.

Negotiations began with the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation in August, 1985. Concerned water users expressed a desire to be included in the negotiation process, and a seat at the table was provided for them. The negotiation of the Tribes' claims proved difficult for all concerned. But after five years of negotiations, the Shoshone-Bannock Tribes, the United States, the State of Idaho and the Committee of Nine, representing concerned water users, executed a settlement agreement, which Congress ratified with the Fort Hall Indian Water Rights Act of 1990, Pub. L. 101-602, 104 Stat. 3059. The Idaho Legislature also ratified the agreement. 1991 Idaho Sess. L. 547. The settlement agreement quantifies all of the Tribes' water right claims upstream from Hells Canyon Dam. Under the agreement, the Tribe will have approximately 581,000 acre feet of water annually to use on lands within the Fort Hall Indian Reservation. The agreement, however, is contingent upon the quantification of the water rights for the non-Indian portion of the Fort Hall Irrigation Project and court approval of the agreement.

The agreement provides almost 100,000 acre feet of unallocated storage space in Palisades and Ririe Reservoirs to non-Indian water users as mitigation for any impacts caused by the agreement on existing water rights. This is the first time that the United States has agreed to provide mitigation water to non-Indian water users affected by the quantification of Tribal federal reserved water rights. Moreover, the cost to the State of Idaho for implementation of this agreement will be less than \$400,000. By contrast, the state of Wyoming has expended in excess of \$15 million to quantify the federal reserved water rights for the Wind River Indian Reservation, which was created by the same treaty that created the Fort Hall Indian Reservation.

The agreement has been submitted to the SRBA District Court for approval. All objections to the approval of the agreement have been resolved except for nine objections by non-Indian Fort Hall Project water users. Trial on these objections will be in May, 1995, if necessary.

The State of Idaho also has negotiated settlement agreements resolving the United States' water right claims for the Idaho National Engineering Laboratory, the Craters of the Moon National Monument, and the Yellowstone National Park. Negotiations are ongoing with the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation, the Nez Perce Tribe and the U.S. Forest Service.

H. *The Commencement of the Snake River Basin Adjudication*

Idaho Code § 42-1406A (now uncodified) directed that the geographic scope of the adjudication include at a minimum that portion of the Snake River Basin upstream of where the Snake River initially flows out of the State of Idaho near Parma, Idaho, and that the District Court could expand the scope of the adjudication if necessary to ensure the United States' participation in the adjudication. The IDWR filed with the SRBA District Court on June 17, 1987, the Petition to commence the Snake River Basin Adjudication. The Petition asked the SRBA District Court to determine the appropriate geographic scope of the adjudication and to commence the adjudication. The United States appeared and argued that the entire Snake River Basin within the State of Idaho must be included in the adjudication. The SRBA District Court entered its Order commencing the adjudication on November 19, 1987; the SRBA District Court determined that the geographic scope of the adjudication should include that land within the Snake River Basin upstream from where the Snake River leaves the state at Lewiston.

Water users within the Boise, Payette, and Weiser River drainages did not want the scope of the adjudication to include those drainages. These water users sought reversal of the District Court's order expanding the geographic scope of the adjudication to the entire Snake River Basin. The Idaho Supreme Court affirmed the Commencement Order, and the U.S. Supreme Court denied discretionary review of the matter in 1988.

I. *Service of Process and the Taking of Claims*

The 1986 adjudication statute established a two-step procedure for service of process for the massive adjudication. The first step, a Notice of Commencement of the Adjudication, was served on the State of Idaho, the United States, and on other potential claimants by publication in newspapers of general circulation, by posting in county courthouses, and by ordinary mail to real property owners. After completion of the first round service the statute required the IDWR to compare the notices of claim received with its own records to determine if there were any rights to water for which a notice of claim had not been filed. If the IDWR identified such persons, then the IDWR was required to follow a procedure established by the SRBA District Court for service on those persons who had failed to file a notice of claim. This second step is known as the second round service.

The first round service of process began in February, 1988, and continued through February, 1990. During this period, the IDWR served by ordinary mail over 440,000 notices on real property owners in Idaho and published notice in newspapers basin-wide. The mailing cost of the first round of service of process was \$153,000. The IDWR personnel time was in excess of \$5 million for service of process and claims taking. The second round service began as specific basins were investigated. The IDWR has received over 160,000 notices of claim. To date, the IDWR has completed second round service for nine reporting areas.

J. *Federal Filing Fee Litigation*

The McCarran Amendment, 43 U.S.C. § 666, allows the United States to be joined in a suit for determination of water rights in state court. Although the United States agreed that it was subject to the state procedures, it contended that the McCarran Amendment did not waive its sovereign immunity to payment of the adjudication filing fees required by Idaho Code § 42-1414. It filed a petition for writ of mandate in June, 1988, to prohibit the Director from requiring the fee for federal claims. The matter proceeded to trial, and the SRBA District Court denied the petition. The Idaho Supreme Court affirmed the SRBA District Court's decision, with two justices dissenting. The U.S. Supreme Court reversed the decision in May, 1993. As a consequence of the Supreme Court's decision, the United States refuses to financially support the SRBA, even though the approximately 50,000 claims filed by the United States account for almost a third of the total claims filed in the SRBA.

K. *The Conflict Regarding the Reporting of Water Rights*

The 1986 amendments to the adjudication statute provided that the Director would file with the SRBA District Court a Director's Report consisting of three parts: Part One includes the Director's description of water rights acquired under state law. Part Two includes the Director's abstract of water rights reserved under federal law. Part Three includes the actual Notices of Claim filed by the claimants with the Director. After filing of the Director's Report, parties to the adjudication have an opportunity to file an Objection to any description of a water right in a Director's Report. Any party has the right to file a Response to any Objection. After the close of the period for filing responses, the claimant and those parties who file an Objection or a Response proceed to trial on the nature and scope of the water right subject to an Objection.

The geographic size of the SRBA and the large number of claims required that the SRBA District Court divide consideration of the adjudication into smaller parts for review and determination. A controversy regarding how to divide the matter surfaced soon after the service of process had been completed. The IDWR initially recommended to the SRBA District Court that it proceed to determine the water rights for each of IDWR's forty-three administrative sub-basins. The basis for this recommendation was that the forty-three sub-basins roughly correspond to hydrologic sub-basins within the Snake River Basin.¹ The IDWR also needed to stage the timing of the reports in a manner to allow the IDWR to rotate the investigation and preparation of Director's Reports among its four regions. The United States objected. The SRBA District Court rejected the IDWR's proposal and set the matter for hearing.

The IDWR negotiated with the various interested parties and executed a stipulation regarding the geographic scope and staging of the sub-basins. The stipulation provided that the litigation would proceed with a total of twenty-four Director's Reports and that the Director would file Director's Reports for three test basins: Reporting Area 1 (IDWR Basin 34--the Big Lost River drainage), Reporting Area 2 (IDWR Basin 57--various small tributaries of the Snake

¹ The division of the Eastern Snake River Plain into hydrologic sub-basins follows county boundaries because the surface topography provides no clear hydrologic boundary.

River in Owyhee County), and Reporting Area 3 (IDWR Basin 36--the Thousand Springs area and adjacent Snake River Plain). The use of test basins was included as a means to identify necessary and appropriate procedures for application to the remainder of the SRBA. In addition, the stipulation provided for the filing of a Director's Report for the 1990 Fort Hall Water Rights Agreement.

L. *The Director's Reports for the Three Test Basins*

The IDWR filed the Director's Reports for the three test basins in 1992. The number of claims and objections for the three test basins are as follows:

Reporting Area	No. of Claims	No. of Objections	No. of Contested WR	Number & Percentage of Objections filed by United States
Area 1 (IDWR Basin 34)	6,300+	1,120 ²	941	274; 24%
Area 2 (IDWR Basin 57)	2,800+	600	561	457; 76%
Area 3 (IDWR Basin 36)	7,500+	518	478	149; 28%
TOTAL	16,600	2,238	1,980	880; 39%

M. *Basin-Wide Issues*

Because not all water right claims can be resolved at one time, concern arose that the SRBA District Court might resolve some issues that affect many other water users whose rights had not been reported. These water users wanted an opportunity to participate in issues of basin-wide importance. In response to this concern, the SRBA District Court established a procedure for consideration of basin-wide issues. The procedure operates as follows. Any party may request designation of a basin-wide issue. The SRBA District Court provides an opportunity for hearing and determines whether to designate an issue as a basin-wide issue. If the SRBA District Court designates an issue as a basin-wide issue, then all parties in the SRBA are provided notice that the issue will be decided. This allows all interested parties a chance to participate. In addition, the SRBA Court ruled that because some objections had been filed by claimants to the general provisions, there are no unobjected to claims.

To date, the SRBA District Court has designated four basin-wide issues: (1) the constitutionality of Idaho Code §§ 42-1416 and 42-1416A [since repealed], (2) the role of the Director of the Idaho Department of Water Resources in the SRBA, (3) the constitutionality of

² The United States initially filed 1,465 objections. It later withdrew 345 objections.

the 1994 amendments to chapter 14, title 42, Idaho Code; and (4) the constitutionality of Idaho Code §§ 42-1425, 42-1426 and 42-1427.

N. *Conjunctive Management Studies*

The Northside Canal Company (NSCC) and Twin Falls Canal Company (TFCC) filed a complaint on July 29, 1992, in the SRBA against the IDWR alleging that the IDWR was harming them by the continued issuance of permits to certain classes of water users in the upper Snake River basin. The factual basis for the claim was that natural flow water rights held by NSCC and TFCC depended on spring discharges to the Snake River near American Falls and that pumping of ground water was diverting water that otherwise would flow into the Snake River as a spring discharge. The SRBA District Court dismissed the complaint of NSCC and TFCC without prejudice following execution of a settlement agreement by the parties. The settlement agreement provided for studies of the Snake River Plain Aquifer to determine the effect of ground water pumping on spring discharges. Those studies commenced in 1993 and will be completed by June 30, 1996.

O. *Amendment of the Adjudication Statute in 1994*

On February 4, 1994, the SRBA District Court issued a memorandum decision that found Idaho Code §§ 42-1416 and 42-1416A unconstitutionally vague. *Memorandum Decision And Order On Basin-wide Issue No. 1, Constitutionality of I. C. § 42-1416 And I. C. § 42-1416A, As Written* on February 4, 1994. These statutes established procedures for reporting and decreeing previously decreed and licensed water rights. At the same time, the role the Director should play in the adjudication became a major issue as well as the conjunctive management of surface and groundwater. The combination of these factors resulted in a call by many water users for legislative action. A package of bills was passed to address a broad spectrum of problems.

A major portion of the 1994 legislation addressed issues and concerns identified in general water right adjudications in the State of Idaho and in the Snake River Basin Adjudication. Many of the changes were adopted as a means for streamlining the adjudication and reducing the costs to the claimants as well as the state. The problems and the solution provided by this legislation are as follows:

1. The McCarran Amendment allows the United States to be joined in state proceedings for the adjudication of water rights and for the administration of those rights. The State of Idaho's petition to commence the adjudication sought both the adjudication and administration of all water rights. The United States contends, however, that its water rights can only be administered by a court. This statute amended chapter 14, title 42, Idaho Code to make clear that the Legislature intended to authorize an action within the full scope of the waiver of sovereign immunity in the McCarran Amendment, including the administration of the federal water rights by the Director in accordance with the decree entered by the District Court.

2. The decision of the U. S. Supreme Court in *United States v. Idaho*, ___ U.S. ___ 113 S. Ct. 1893 (1993), concluded that the State of Idaho could not impose on the United States the fees it charges other claimants. The 1986 adjudication procedures subsidized the determination of the United States water rights because the IDWR provided many services that in normal litigation a participant would have to bear. The 1994 legislation removed part of this subsidy by shifting these normal litigation expenses back to the United States and to other claimants of water rights established under federal law.

3. The 1994 amendments also addressed the role of the Director of IDWR. The amendments make clear that the Director's role is limited to informing the SRBA District Court and all parties to the adjudication of the technical information available and to providing an independent review of each state water right claim. The Director's investigation is intended to be a review based upon the readily available data and is not intended to be an exhaustive examination of each water right.

4. The SRBA District Court entered several orders imposing attorneys fees and costs against the Director in the SRBA relying on the private attorney general doctrine, I. C. § 12-117, and I. C. § 12-121. The SRBA District Court indicated that it would award attorneys fees under the private attorney general theory, regardless of whether a party prevailed, to the first party raising an issue. The amendments prohibit these awards. The Legislature determined that the State does not have the resources to pay these awards in a general adjudication. Moreover, such awards are inappropriate because the Director is not an adversarial party nor does he own a water right that will be affected by the decree. The claimants, because it is their water rights that are being adjudicated, are the actual parties in interest in this litigation and should bear the expense of proving their claims. Finally, the Legislature found that such awards simply served to encourage litigation and are an inappropriate taxpayer responsibility.

5. In response to the SRBA District Court decision striking down Idaho Code §§ 42-1416 and 42-1416A as unconstitutional, the Legislature repealed these sections and added new sections that specify the intent of the Legislature with more precision. The purpose of the amendments was to avoid time consuming appeals and to keep the adjudication focused on the purpose for its existence -- adjudication of water rights.

6. The 1994 amendments also directed the SRBA District Court to use settlement conferences to give claimants an opportunity to discuss and resolve a dispute short of trial. A number of claimants testified that the Court scheduling procedure was forcing them to retain an attorney and prepare for trial when in fact they felt that settlement discussions would resolve their concerns.

7. The contents of a description of a water right in a decree were the subject of much dispute in the SRBA. The 1994 amendments resolved this dispute in the SRBA by providing more detail about the contents of a water rights decree. The amendments require that the decree contain all information necessary to define the right as well as provide a basis for the proper administration of the water right by the IDWR.

P. *The Basin-Wide Issues 2 and 3 Decisions*

On December 7, 1994, the SRBA District Court issued its decisions in Basin-Wide Issues 2 and 3 and held that the Legislature violated the Idaho Constitution and the McCarran Amendment by enacting the 1994 amendments to the adjudication code. The SRBA District Court struck down as invalid all of the amendments except for sections 42-1425, 1426 and 1427. The basis for the SRBA District Court's decision are as follows:

1. The SRBA District Court first held, in what it called the "lynch-pin issue," [sic], that the SRBA must proceed as a standard civil lawsuit in order to maintain jurisdiction over the United States under the McCarran Amendment, which waives the United States' sovereign immunity from adjudication "suits" in state courts.
2. The SRBA District Court then held that the 1994 amendments violated the separation of powers doctrine, stating that the majority of the essential provisions of the 1994 Act were adopted in order to reverse interlocutory SRBA District Court decisions or to legislate the outcome of issues that were pending before the court at the time the 1994 Act was adopted. The SRBA District Court held that the Legislature's stated purpose for the 1994 Act, efficiency and fairness, was not the reason why these provisions were adopted. The SRBA District Court concluded the effect of the 1994 Act was to obtain results legislatively that the State, as a party, failed to gain before the SRBA District Court during the pendency of the action. The effect of this decision is that the Legislature cannot amend the 1986 Act to improve the operation of the SRBA or to ensure the SRBA proceeds as the Legislature originally intended.
3. The SRBA District Court then focused on what it termed changes to the party status of the State of Idaho and the role of IDWR. Even though the State is named in the petition in both its proprietary role and its regulatory role, and the Legislature appropriated, and the state agencies paid, filing fees for filing claims, the SRBA District Court concluded that the State of Idaho can only appear as one party in the SRBA. The SRBA District Court stated that the Legislature intended in the original adjudication statute that the State of Idaho would appear in the SRBA only through the Director of IDWR and that the new legislation making IDWR an independent expert changes this participation by the State of Idaho. The SRBA District Court determined that the Legislature cannot control the participation of state agencies before the court in this way. The SRBA District Court ruled that in the SRBA, the State of Idaho and its executive agencies, including IDWR, are one and the same.

The SRBA District Court directed state agencies and IDWR to resolve their disagreements regarding the State's proprietary claims and the rights of all other

claimants before a Director's report is filed. If the agencies cannot resolve their differences the Attorney General was ordered by the SRBA District Court to determine the State's position. The SRBA District Court called these issues "political questions."

Finally, the SRBA District Court concluded that the Legislature cannot make IDWR an independent expert. The SRBA District Court stated by virtue of IDWR's status as an executive agency of the State of Idaho, and because of IDWR's own clear interest in the outcome of the SRBA, IDWR is not, nor can it legislatively be declared to be, an independent party. The SRBA District Court concluded that in every contested action, IDWR is an adversary to water users who file objections to the Director's Reports.

4. The SRBA District Court also held that the 1994 Act is unconstitutional because it sought to include "administration" in SRBA decrees. The SRBA District Court held that the SRBA was intended to be a judicial process to "inventory" all rights to use water in the Snake River basin, including those of the United States. Further, the SRBA District Court held that provisions governing the delivery and distribution of water to Idaho water users requires the exercise of police power and that it violates the separation of powers doctrine to delegate these powers to the judiciary. The SRBA District Court concluded that only IDWR has the authority to administer water rights and that therefore administrative provisions could not be included in any water right decree. This decision raises questions regarding the validity of prior water right adjudication decrees that contain administrative provisions.

5. The SRBA District Court held that the Legislature unconstitutionally modified Idaho Supreme Court rules of procedure and evidence. The SRBA District Court without elaboration concluded that the provisions of the 1994 Act changing the Director's Report from a pleading to an expert report, prohibiting the award of costs and attorneys fees against the State, requiring mandatory settlement conferences, and dismissing the abstract of United States' claims filed with the court conflicted with the Idaho Rules of Civil Procedure and were void. The SRBA District Court concluded that the provisions of the 1994 Act removing the Director of IDWR's authority to participate as a party, designating him as a technical expert available to testify if called, addressing the admissibility of the Director's Reports, and addressing the weight to be attributed to those reports by the court conflicted with the Idaho Rules of Evidence and were void.

6. Finally, the SRBA District Court concluded that the State of Idaho has already consented to pay costs and attorneys fees in the SRBA and cannot withdraw its consent after the court's jurisdiction has attached. The SRBA District Court stated that when the State invokes the jurisdiction of a court for any purpose, the State waives its sovereign immunity and consents to the court's authority to order any remedy, including monetary awards against the State.

Finally, the SRBA District Court held that under the separation of powers doctrine, the Legislature may not alter the inherent authority of the court to award costs and fees.

In response to the constitutional issues raised by the decisions, the Committee met on December 14, 1994. At that meeting, University of Idaho Law School Professor Dennis Colson, a published authority on Idaho constitutional law, and Oregon's Assistant Attorney General Steve Sanders, an expert on the McCarran Amendment, testified that the SRBA District Court's analysis of the constitutional and McCarran Amendment issues is seriously flawed. Professor Colson testified that the Legislature was well within its constitutional powers when it enacted the 1994 amendments. Mr. Sanders testified that the McCarran Amendment waiver was not limited to purely judicial actions. He cited a federal district court decision in Oregon that supported his conclusion. On December 28, 1994, that decision was affirmed by the United States Ninth Circuit Court of Appeals. The Ninth Circuit states:

In fact, the active participation of administrative agencies is at the core of most of the "comprehensive state systems for adjudication of water rights" contemplated by the McCarran Amendment. While the traditional civil lawsuits may remain viable devices for the comprehensive adjudication of rivers with a small number of claimants, by 1952 it was clear that they were not well-suited for comprehensive adjudication of the rights in large rivers.

United States v. Oregon, 1994 W.L. 715102 (9th Cir. December 28, 1994). This Ninth Circuit opinion contradicts the SRBA District Court's conclusion that any portion of the 1994 Act that requires the SRBA to proceed differently from a normal lawsuit is not within the scope of the waiver of sovereign immunity contained in the McCarran Amendment. This opinion also refutes the undiscussed implication of the SRBA District Court's reasoning that even the 1986 adjudication statute is outside the McCarran Amendment waiver because it specifically created procedures that are not purely judicial.

On December 22, 1994, the SRBA District Court recommended that the Idaho Supreme Court grant permission to appeal its decisions. A motion for permission to appeal is pending before the Idaho Supreme Court.

IV. STATE PARTICIPATION IN THE ADJUDICATION

The State of Idaho participates in the Snake River Basin Adjudication in three distinct ways. First, Idaho's water is a critical public resource, and the State must effectively and fairly administer its water resources for the benefit of all citizens. The State's historical and scientific knowledge and experience makes its participation critical. Second, Idaho's economy is intimately tied to water, and therefore the State must participate to protect its control of the

State's water resources. The federal government's claims make Idaho's economy vulnerable to the federal government's whims. Finally, the State must appear in the Snake River Basin Adjudication to protect its own proprietary interests in water.

A. *Role of The Idaho Department of Water Resources*

The IDWR is the repository of the State's expertise regarding water resources and water rights. Additionally, the IDWR has substantial experience participating in water rights adjudications. The challenge to the Legislature has been to make this expertise and experience available to the SRBA District Court and to the State's citizens in a way that furthers the adjudication process but avoids burdening IDWR to the point it cannot perform the other functions of the agency.

In the legislation under which the Snake River Basin Adjudication was commenced in 1987, the IDWR was authorized to appear in the adjudication as a party. Although the IDWR claims no water rights on behalf of the State, the Legislature initially thought that by making the Director a party to the SRBA, IDWR could better provide its expertise to the SRBA District Court and other parties in the case. The Idaho Supreme Court recognized that designation of the Director as a "party" was simply a vehicle to inject the IDWR's expertise into the case:

The Director is really a disinterested party. The only interest the Director has is to see that all rights are accurately adjudicated. The Director does not oppose a claim, trying to subvert a valid claim. Nor does the Director stand to gain if a claim is invalidated.

United States v. Idaho Department of Water Resources, 122 Idaho 116, at 122-23, 832 P.2d 289, at 295-96; rev'd on other grounds, ___ U.S. ___, 113 S. Ct. 1893 (1993). In this context, the IDWR served notice of the commencement of the adjudication on the water right claimants, received their claims, investigated the state law-based claims, and made recommendations to the SRBA District Court in the form of Director's Reports.

Unfortunately, the vehicle of having the IDWR as a party to the Snake River Basin Adjudication proved unworkable. The focus of the litigation shifted from a determination of water rights to adversarial litigation by certain claimants against the IDWR. The prospect of the IDWR litigating against the claims of Idaho's citizens was antithetical to the very reasons for the IDWR's participation in the adjudication in the first place--to ease the burden of the adjudication on Idaho's citizens and to assist the SRBA District Court with the complex legal and hydrological questions posed in the case. As a result, the Legislature amended the adjudication statute in 1994 to restore the IDWR to the role originally envisioned by the Legislature of a technical expert for the claimants and the court.

Under the new amendments the IDWR retained the duties it had under the 1986 amendment but was no longer authorized to participate as a party in adjudications. The IDWR continued to serve notice of the commencement of the adjudication, accept claims, and investigate the state law-based rights. The IDWR also made recommendations to the SRBA

District Court on the investigated rights. If no objections were made to those recommendations the rights were to be decreed. If an objection was filed, the Director's Report became evidence and the court or parties to the adjudication could have requested the IDWR to appear as a witness. In this way, the IDWR would have continued to provide services to the SRBA District Court and claimants. The Director's expertise was available to help with the accurate determination of rights. Providing these services through the IDWR served the twin goals of protecting Idaho's water resources, as well as easing the burden of the adjudication on all claimants.

The SRBA District Court, however, invalidated the 1994 Act. The SRBA District Court ordered IDWR to act as an adversarial party against every water user in the SRBA except in water right claims asserted by other state agencies. This was not the role contemplated by the Legislature in either the 1986 amendments or the 1994 amendments.

B. *Role of Other State Agencies*

From its commencement, under the 1986 amendments, other state agencies were authorized to appear in the SRBA to assert claims to water rights. State agencies were required to assert their claims in the same fashion as private water right claimants. Indeed, the Legislature appropriated funds for the agencies to pay the filing fees associated with their claims. State agencies submitted claims to water rights and paid filing fees to the IDWR for their claims. They have borne the burden of establishing their water right just as any other claimant is required to do. Further, like a private claimant, state agencies also objected to water right claims that impact their water rights. The 1994 amendments did not change this historic practice.

The SRBA District Court, however, in its recent decisions, ruled that state agencies must meet with IDWR to determine how the State's rights will be recommended. Agencies may no longer present their proprietary claims in court to have those claims adjudicated in a neutral tribunal nor may those agencies present objections to the Director's report. The SRBA District Court ordered IDWR to litigate on behalf of those state agencies. This fundamentally changes the Director's duties and authorities. This is so even though the state agencies paid filing fees to file their claims and the State of Idaho was named as a defendant in the original petition commencing the SRBA.

C. *Role of the Attorney General's Office*

The Attorney General represents the State of Idaho in all legal proceedings. As a constitutional officer, he has the duty to determine how to best represent the State's multiple interests and has properly performed this function since the commencement of the SRBA.³ The District Court's decisions would fundamentally change his duties and authorities by requiring

³ While the Legislature explicitly directed the Attorney General to represent the State's interests with respect to the federal reserved water right claims in the 1994 amendments, this did not change his role. The necessity for a well-coordinated response to the federal government's water right claims cannot be overstated.

him to present only one position in the SRBA even though the State has many distinct legal interests - some proprietary, some regulatory and some on behalf of the public.

Citing no authority in its decisions, the District Court ruled that the Attorney General may no longer present these multiple positions and must "speak with one voice." Although this issue was never addressed in the briefing, the District Court justifies its decisions by discussing one particular sub-proceeding, *Rim View*, in which three (3) state agencies participated. Testimony before the Committee contradicted the District Court's description of both this particular sub-proceeding and the enormity of the problems created by the State appearing in more than one role. As discussed above, there are very few state proprietary claims. Therefore, multiple representations should not delay proceedings. With respect to *Rim View* itself, it does not appear that the State's participation delayed the proceedings in any way. Significantly, the parties reached a settlement and this settlement was presented to the District Court for its approval in 1993. The settlement agreement remains under consideration by the District Court.

D. *Role of Idaho Water Resource Board*

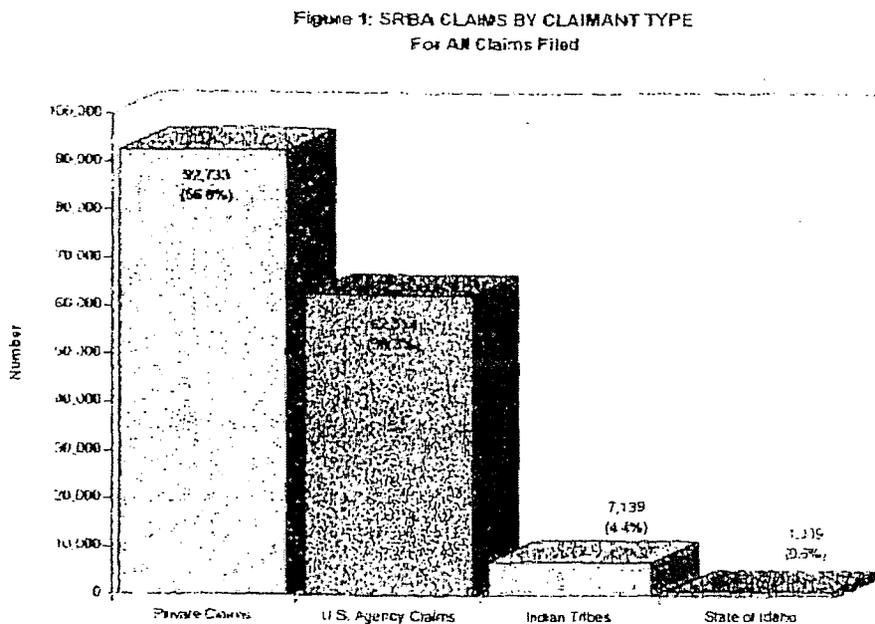
The Legislature, by Joint Resolution, directed that the State negotiate with the federal government regarding the water right claims for the Fort Hall Indian Reservation. The Water Resource Board was appointed by Executive Order to conduct those negotiations, as well as negotiations regarding the scope and extent of the other federal claims.

The Water Resource Board, working with the Attorney General's Office, has completed negotiations of the federal reserved water right claims for the Fort Hall Indian Reservation, the Craters of the Moon National Monument, and the Idaho National Engineering Laboratory. Negotiations are continuing with the Nez Perce Tribe, the Shoshone-Paiute Tribes at the Duck Valley Reservation and the U.S. Department of Agriculture, Forest Service.

V. SCOPE OF THE SNAKE RIVER BASIN ADJUDICATION

Over 87% of the State of Idaho is included within the Snake River Basin and thus within the adjudication. To date 163,395 claims have been filed in the SRBA.⁴ There are two types of water rights claimed. The first type of claim is based upon the development of water pursuant to the laws of the State of Idaho. This type of claim is referred to as a state law claim. The second type of claim is based upon an implied or express reservation of water by Congress for federal lands that have been set aside for an express purpose. This type of claim is referred to a federal reserved water right or federal law claim. The United States and the Tribes have filed both types of claims in the SRBA.

Figure 1 shows the total number of claims filed by claimant type.



"Private Claims" refers to state law claims filed by individuals, businesses and local governments. "U.S. Agency Claims" refers to claims filed by federal agencies on their own behalf or on behalf of Indian tribes. "Indian Tribes" refers to claims filed by the tribes on their own behalf.

⁴ Data in this section is based upon a computer sort of the IDWR claims data base. Because of terminology used by claimants, the actual number of claims within the categories may vary slightly from the computer results.

Figure 2 shows the total number of state law claims filed by claimant type

Figure 2: CLAIMS BASED ON STATE LAW

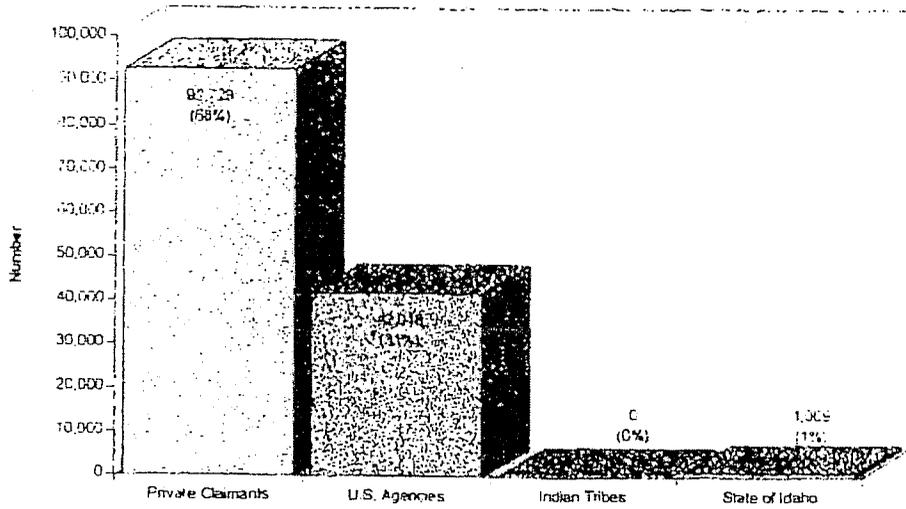


Figure 3 shows that claims based upon state law far outnumber the claims based upon federal law.

Figure 3: DIVISION OF CLAIMS
Based on State Law versus Federal Law

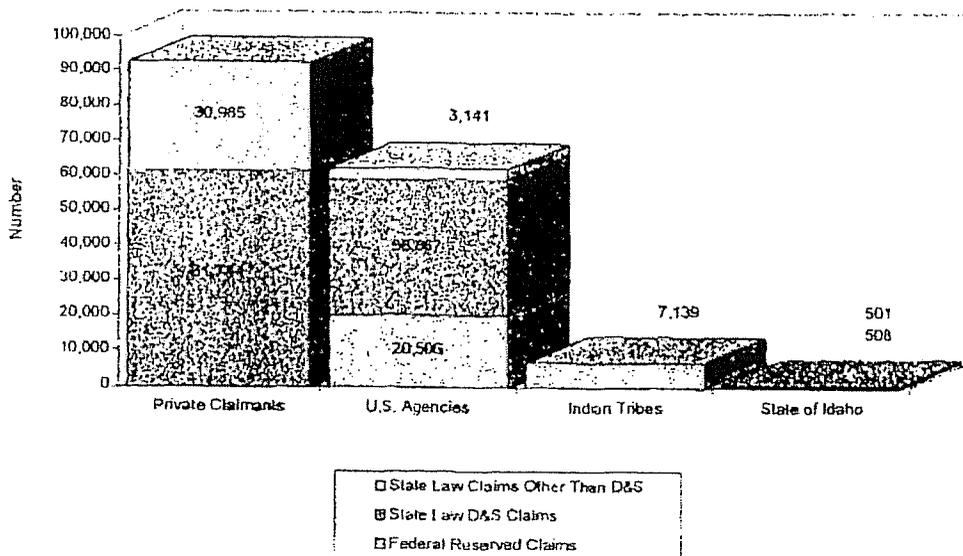
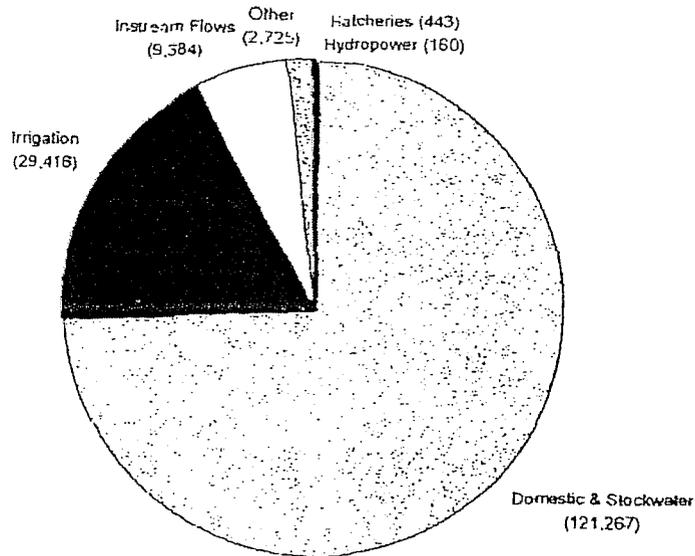


Figure 4 demonstrates that domestic and stock water claims constitute the largest category of use.

Figure 4: SRBA CLAIMS BY CATEGORY



The total number of claims, while informational, does not tell the whole story. In order to understand the relative impact of various types of water rights, it is also necessary to consider their diversion rates. Figure 5 provides a breakdown of the number of domestic and stockwater claims by diversion rate.

Figure 5: Breakdown of Domestic & Stockwater Claims by Diversion Rate

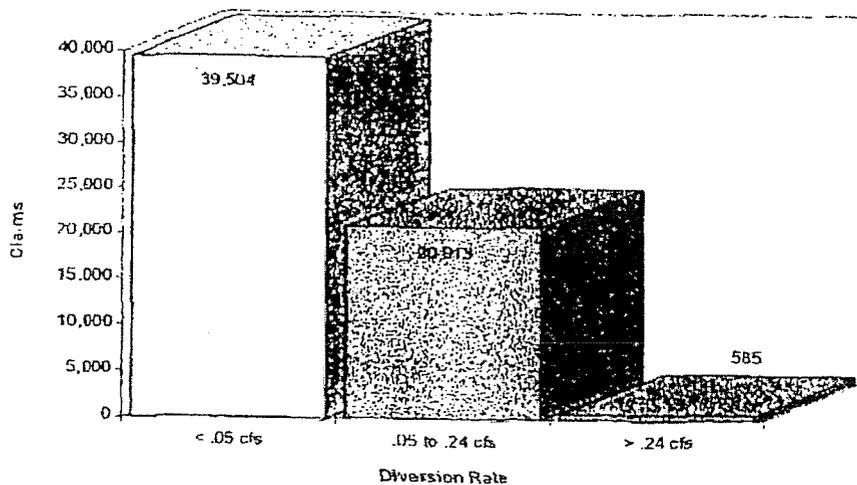


Figure 6 provides a breakdown of the number of irrigation claims by diversion rate.

Figure 6: Breakdown of Irrigation Claims by Diversion Rate

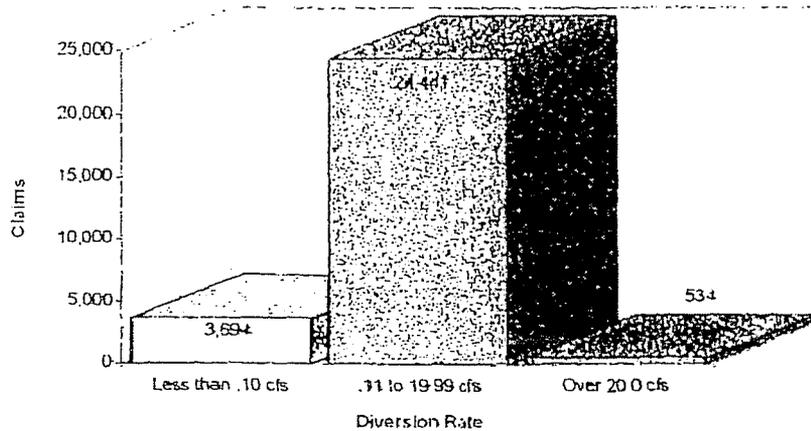


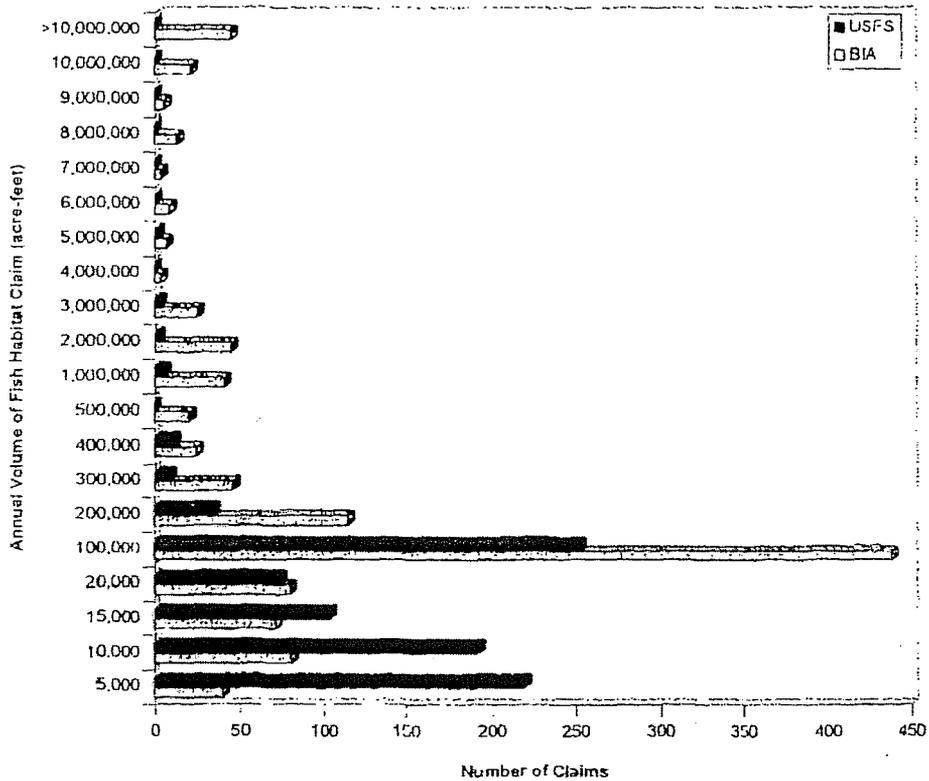
Table 1 provides an overview of the instream flow claims of the federal government. The table provides the names of the agencies making claims, the approximate number of claims and the purposes of use.

Table 1. Claims to federal reserved rights for instream flows.

Claimant	Number of Claims	Purpose of Claim
BIA (for Nez Perce)	1133	Fish, riparian habitat and channel maintenance.
Nez Perce Tribe	1134	Fish, riparian habitat and channel maintenance.
Shoshone-Bannock Tribes	1067	Fish, riparian habitat and channel maintenance.
Northwestern Band of Shoshoni Nation	27	Fish, riparian habitat and channel maintenance.
Shoshone-Paiutes	3	
United States Forest Service	1359	Channel Maintenance
	912	Fish
	2	National Recreation Areas
	3	Wilderness
	78	Recreation
	57	Hot Springs
	1342	Lake Levels
	7	Wild and Scenic Rivers
Total United States Forest Service Claims	3760	
National Park Service (City of Rocks)	1	Channel Maintenance
United States Fish and Wildlife Service	1	Wildlife at Deerflat Wildlife Refuge

The total annual volume of the claims cannot be quantified because the federal instream flow claims for channel maintenance vary based upon the amount of water in the stream at any given moment. Fish habitat claims, however, can be quantified because they are based on fixed flows that do not change from year to year. Figure 7 shows the number and size of the instream flow claims for fish habitat filed by the United States Forest Service and the Bureau of Indian Affairs.

Figure 7: Amount and Distribution of Instream Flow Claims for Fish Habitat Made by United States Forest Service and Bureau of Indian Affairs



The Bureau of Indian Affairs (BIA) claims are filed on behalf of the Nez Perce Tribe. The Nez Perce Tribe and the Shoshone-Bannock Tribes have filed claims substantially mirroring those of the BIA. The Northwest Band of Shoshoni has also filed substantial instream flow claims. The total volume of the claims for fish habitat is difficult to describe: simply adding the claims together results in a total federal and tribal instream flow claim of over 4.5 billion acre feet per year. The result is misleading, since many of the claims are duplicative. A better method for appreciating the magnitude of the federal and tribal claims is to compare the claims to the average annual flows estimated by the Forest Service and the BIA. On average, the Forest Service claims 98% of the average annual runoff volume of the 912 stream reaches included in its instream flow claims for fisheries habitat. The BIA claims 113% of the average annual runoff volume of 1133 stream reaches. An example of how fishery habitat claims exceed the amount of available water is seen in Figure 8, which compares the BIA fisheries flow claim for

the Snake River in the Weiser to Brownlee Dam reach against the mean daily flow and the low flow.

Figure 8: Snake River Mean Daily Flows for the Month, Weiser to Brownlee Dam and Fisheries Habitat Flow Claims of the Bureau of Indian Affairs

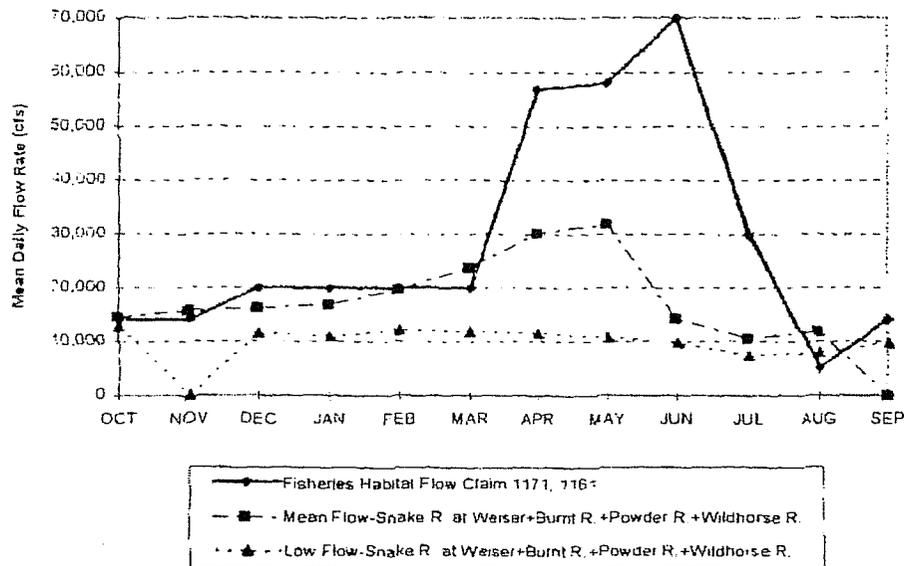
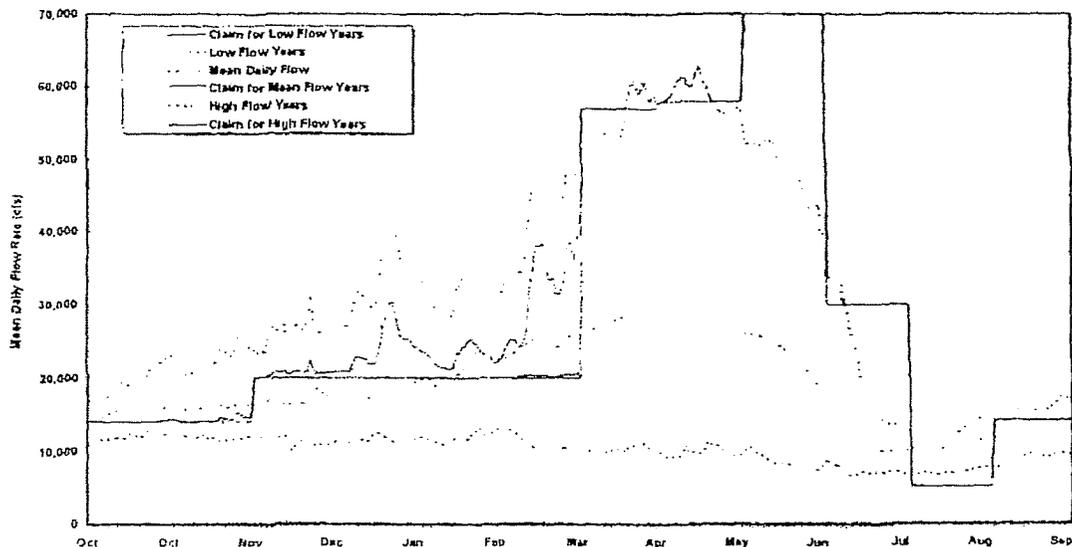


Figure 9 shows how the channel maintenance claim for the same stretch of the Snake River varies in high, mean, and low water flow conditions. Except in high water conditions, the channel maintenance claim exceeds daily flows throughout most of the year.

Figure 9: Bureau of Indian Affairs Channel Maintenance Claim for Snake River, Weiser to Brownlee Dam

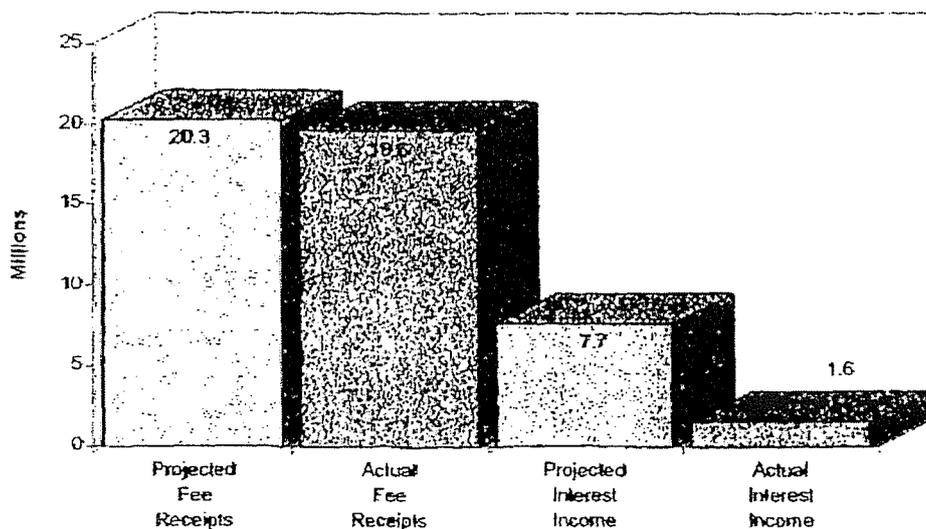


VI. SNAKE RIVER BASIN ADJUDICATION FUNDING

The SRBA, when authorized in 1985, was projected to cost \$28 million. This projection assumed that 114,000 claims would be filed. The projection did not take into account the cost of processing domestic and stock water claims, the costs of adjudicating the claims of the federal government, or the costs of the judiciary. Of this total, \$20.3 million was to be paid with filing fees paid by the claimants, and \$1 million from the general fund. The balance was to be paid from interest earned on the filing fees. It was assumed that the cost of adjudicating the claims of the federal government would be covered by the filing fees paid by the federal government for its water right claims. The Bureau of Reclamation had stated that it would pay the filing fees and it was believed that other federal agencies would agree to pay the filing fees.

To date, approximately \$19.6 million in filing fees have been collected. As discussed in paragraph III. J. above, the United States was successful in its challenge to the payment of the adjudication filing fees. This fact, combined with the failure to account for the cost of processing domestic and stock water claims, judicial expenses and delays in the proceeding, has contributed to a shortfall in the funding of the adjudication. In addition, only \$1.6 million of interest income has been received, which is \$6.1 million below the projected interest income receipts.

Figure 10: Fees and Interest; Original Projections and Actual



SRBA expenditures to date are shown in Figure 11. The majority of expenses, \$8.6 million, has been for claims investigation and the preparation of director's reports.

Figure 11: SRBA Fee Account Expenditures
\$16.8 Million Total Expenditures Through December 31, 1994

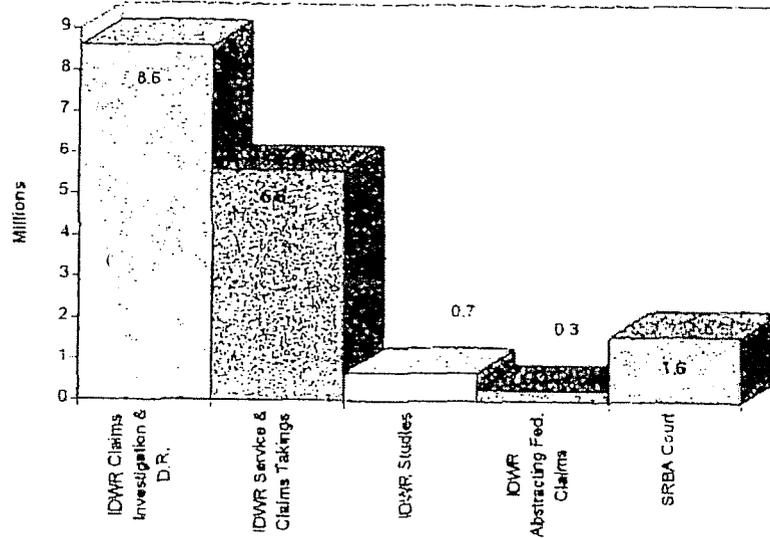
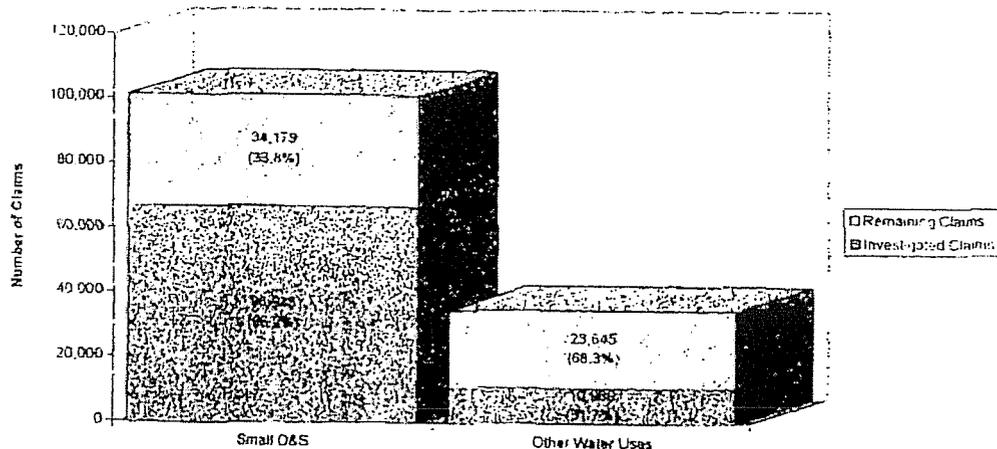


Figure 12 shows the total number of claims and the number of those claims that have been investigated.

Figure 12: Progress of Investigating SRBA State Law Claims
(D&S through 9/29/94; Others through 11/07/94)



Some of the claims investigated under the "other water uses" category will have to be reexamined as a result of the SRBA District Court's decision on Basin-Wide Issue #1 and may be affected by its pending decision in Basin-Wide Issue # 4.

At present, the annual budget for the IDWR and the judiciary from the adjudication account is approximately \$4 million.

IDWR projected a need of \$32 million to fund the adjudication through FY2003 prior to the Basin-Wide Issue #2 and #3 decisions. Based upon the current rate of expenditures IDWR predicted that there are sufficient funds in the adjudication account to cover all IDWR and judicial expenses through FY95. Additional funding will be necessary beyond FY95. This projection assumed that no new mandates would be placed on the IDWR by the SRBA District Court and no awards of attorneys fees would be made against the IDWR. More recently, as a result of the SRBA District Court's Basin-Wide Issues # 2 and # 3 decisions that among other things require a significantly more active participation by IDWR than even the 1986 amendments required, IDWR estimated that the total cost of the SRBA may double.

A subcommittee of this Committee met on June 20, 1994, to discuss methods for funding the SRBA. The subcommittee considered the following alternatives for funding the SRBA: 1) a water use tax, 2) an increase in the adjudication filing fee, 3) a special dedicated sales tax, and 4) an appropriation of money from the general fund. In addition, the subcommittee discussed the need for developing methods to reduce the cost of the adjudication.

Based upon the absence of any reliable means of predicting the total adjudication costs, the subcommittee developed an interim funding recommendation. The recommendation consisted of three parts.

First, the congressional delegation should be encouraged to seek an appropriation to reimburse the state for the expenses it is incurring in adjudicating federal water right claims. At present, the federal government is getting a free ride on the back of Idaho taxpayers and water users. As a matter of fairness, the federal government should be required to pay the same fees required of all other claimants.

Second, a five year funding plan should be adopted. Based upon the current \$4 million annual expenditures of IDWR and the judiciary, the subcommittee recommended that \$10 million of the FY95 surplus be appropriated to the adjudication account to be expended at a rate of \$2 million per year. A general fund appropriation of \$2 million was recommended to provide the balance of the funding need.

The recommendation of \$20 million in general fund support was premised on the need for equitable sharing of the costs between the general public and the claimants. Since all citizens of Idaho will benefit from better water management, it was felt that the state as a whole should provide funding equivalent to the amount of filing fees paid by the claimants. Increased filing fees were rejected because the original SRBA filing fee schedule was represented to the claimants as adequate to fund the adjudication. A water use tax was rejected because of the administrative difficulty of collecting small amounts of money from a very large number of water users. For example, over two-thirds of the claims in the SRBA are for domestic and stock water use; however, these claimants use less than five percent of the total water diverted from the

Snake River basin. A special sales tax was rejected because of the absence of accurate information to predict what funding will be needed for the SRBA.

The subcommittee expressed great concern regarding the funding of the adjudication from the general fund for more than five years. Thus, it recommended that annual oversight of the adjudication continue and that a permanent funding solution be developed. It further recommended that a water use tax be considered as one of the permanent funding solutions.

VII. WESTERN STATES' ADJUDICATION PERSPECTIVE

Almost all states across the West are engaged in general stream adjudications; however, the scope of these adjudications ranges from very small adjudications to statewide adjudications. Each of the states has enacted comprehensive statutory procedures for the conduct of adjudications. Although the procedures vary, they share the common element of placing the agency responsible for administering water rights in the role of overseeing many of the activities of general stream adjudications. In the larger adjudications, this has created conflict between the various branches of government.

The following states are involved in substantial adjudication efforts at the present time:

1. Arizona

Arizona has a growing population and one of the shortest water supplies of any of the western states. It is addressing this water supply problem by proceeding with adjudications of the Gila River water system and the Little Colorado River water system. More than 67,000 claims to the use of water have been filed in *In Re the General Adjudication of All Rights to Use Water in the Gila River System and Source*, Nos. W-1, W-2, W-3, W-4 (Ariz. Super. Ct., Maricopa C'ty, Mar. 27, 1980) and over 11,000 claims to the use of water in *In Re the General Adjudication of All Rights to Use Water in the Little Colorado River System and Source*, No. 6417 (Ariz. Super. Ct., Apache C'ty, May 19, 1980). Water right claims have been filed on behalf of eight Indian Tribes.

The Arizona general stream adjudication procedure has been challenged on several occasions. The United States and the Tribes initially challenged Arizona's right to adjudicate federal reserved water rights. The United States Supreme Court and Arizona Supreme Court rejected these challenges. *Arizona v. San Carlos Apache Tribe*, 463 U.S. 545 (1983); *United States v. Superior Court in and for Maricopa County*, 144 Ariz. 265, 697 P.2d 658 (1985). More recently, a conflict has arisen among the Special Master, the Arizona Department of Water Resources and some of the claimants over the procedures that govern the adjudication. As a result of this conflict, the Arizona State Legislature formed a Joint Select Committee on Arizona General Stream Adjudications. The Joint Committee has been meeting for the past six months to develop recommendations to streamline the Arizona general stream adjudication procedures. Arizona is addressing many of the same issues that have arisen in Idaho. The charge to the Joint

Committee is similar to the charge to this Committee--find a way to do a better job that costs less money.

2. Montana

Montana is engaged in a general adjudication of all the water rights within the state. Approximately two hundred thousand claims are involved. The adjudication began in 1973 with an examination of two Powder River basins. In 1979, the Legislature amended the adjudication process to create a system of water judges. In addition, the Legislature statutorily redefined the Montana Department of Natural Resources' role to be an expert assistant to the water judges.

The 1979 amendments led to a conflict between the Montana Department of Natural Resources and the Montana Water Court. In a March 31, 1987 decision, the Montana Supreme Court declared it would promulgate rules covering the verification of water right claims and prohibited the DNR from adopting rules on this subject. *In re the Matter of the Activities of the Department of Natural Resources and Conservation*, 740 P.2d 1096 (Mont. 1987). There have been ongoing adjustments to the adjudication process by the Montana Legislature since the Supreme Court's decision in 1987.

In response to Montana's statewide adjudication effort, the United States and several Tribes commenced separate actions in federal court. Montana sought to have these actions dismissed. Ultimately, the United States Supreme Court affirmed the Federal District Court's dismissal of these federal cases in *Northern Cheyenne Tribe v. Adsit*, a companion case consolidated with *San Carlos Apache Tribe v. Arizona*.

Montana created a Reserved Water Rights Compact Commission to negotiate with the federal government. It has negotiated a settlement agreement regarding the nature of the reserved water rights held by the United States for the Fort Peck Indian Reservation and the Yellowstone National Park.

3. Oregon

Oregon commenced a partial adjudication of the water rights of the Klamath River water system in 1975. Over 25,000 potential claimants were notified of the commencement of the adjudication. The United States challenged Oregon's jurisdiction under the McCarran Amendment because the adjudication began as an administrative action. On December 28, 1994, the United States Court of Appeals for the Ninth Circuit rejected the United States challenge. *United States v. Oregon*, __ F.2d __, 1994 W.L. 715102 (9th Cir. December 28, 1994). The United States may seek review of the Ninth Circuit opinion by the United States Supreme Court.

4. Washington

Washington commenced the adjudication of the water rights of the Yakima River water system in 1977. *State of Washington, Department of Ecology v. Acquavella*, No. 77-2-01484-5

(Wash. Super. Ct., Yakima C'ty). There are about 10,000 claims, including tribal claims for instream flows for anadromous fish.

5. Wyoming

Wyoming commenced the adjudication of water rights of the Bighorn River water system in 1977. *In Re the General Adjudication of All Rights to Use Water in the Big Horn River System and All Other Sources, State of Wyoming*, Nos. 85-203, 204, 205, 217, 218, 225, 226, 236. It includes substantial claims for the Wind River Indian Reservation--a reservation created under the same treaty that applies to the Fort Hall Indian Reservation. The State of Wyoming, private water users, the United States, and the Tribes of the Wind River Indian Reservation litigated the extent of the reserved water right for the reservation. The United States and the Tribes successfully established a very large claim for irrigation with an early priority date. A major conflict between the Tribes and non-Indian water users has resulted from the litigation. There is ongoing conflict regarding what the Tribes may do with their water and who will administer the water rights within the basin.

Colorado and New Mexico also are actively engaged in general stream adjudications. Colorado water rights are established through the Colorado Water Court; thus, it is engaged in an ongoing adjudication of all water rights. New Mexico, on the other hand, has numerous smaller general stream adjudications proceeding throughout the state.

VIII. COMMITTEE RECOMMENDATIONS

The SRBA is one of the largest governmental undertakings in the history of the State of Idaho. The Legislature authorized the adjudication in 1985 to provide finality and certainty with respect to all water rights and to address the federal government's impending claims. While significant gains have been achieved with respect to the negotiation of federal reserved water right claims, the testimony presented during the last legislative session and before the 1994 Interim Legislative Committee on the SRBA demonstrates that the adjudication is mired in controversy.

The Committee was directed to examine methods for funding and streamlining the adjudication. In performing this task, the Committee avoided the temptation to respond to every controversy created by or identified in the SRBA. Nonetheless, the Legislature must not hesitate to pass corrective legislation or control funding to ensure that the purposes of the SRBA are being achieved.

Although there is sentiment for terminating the SRBA, such action at this time is not appropriate. Idaho has a finite water supply and there are real disputes over the use of this supply that must be resolved. If these disputes are ignored, they will simply become more difficult to resolve. In addition, one of the major reasons for originally creating a comprehensive general adjudication for the Snake River Basin was to adjudicate the looming federal claims. Discontinuing the SRBA would open the door to adjudicating those claims piecemeal in federal

court without a comprehensive review of all claims. Thus, the Committee recommends continuation of the SRBA.

The Committee is troubled by the SRBA District Court's recent decisions. As University of Idaho Professor Colson testified, the decisions are long on conviction but short on analysis. The decisions improperly question the motives of the Legislature in enacting the 1994 adjudication amendments and fail to adhere to the most fundamental rule of constitutional interpretation that a statute is presumed constitutional. Moreover, the decisions reflect a fundamental misunderstanding of the separation of powers doctrine and interfere with the constitutional powers of the Idaho Legislature and those of the Attorney General. While the Committee appreciates the very difficult task that has been given to the SRBA District Court, the SRBA District Court must likewise respect the Legislature's ability to oversee and enact legislation to address problems arising in the adjudication. Thus, the Committee recommends that the Legislature intervene in the appeals of Basin Wide Issues #2 and # 3.

In addition to intervening in the appeals, the Committee has identified several additional measures that should be considered. These measures were developed after consideration of testimony by Chief Justice McDevitt, representing the judiciary, members of the executive branch and, in particular, the detailed comments made by the claimants. The recommendations are not intended as a criticism of the efforts of any agency or branch of government but, rather, are offered to defuse some of the conflict that has developed to date, to streamline the SRBA and to save taxpayer monies.

A. *Goals for the Snake River Basin Adjudication*

Those who testified before the Committee repeatedly suggested that the SRBA's goals are unfocused and need to be clarified. Many testified that they understood the adjudication would simply catalogue their water rights. Some suggested that the SRBA's role is more expansive. Others testified that the adjudication was improperly being expanded into a forum for the resolution of all water issues and thus frustrating the primary purposes of the adjudication. Given the confusion regarding the adjudication's goals, it is not surprising that the SRBA has gotten off course. Moreover, the absence of clearly articulated goals has made it difficult for the Committee to evaluate whether the SRBA is achieving the desired ends. Thus, the Committee recommends the adoption of the following statement of substantive goals for the SRBA:

1. All water rights within the Snake River Basin should be defined in accordance with Chapter 14, Title 42 so that all users can predict the risks of curtailment in times of shortage. It is vital to all water users that they have as high a degree of certainty as possible with respect to their water rights. Uncertainty discourages development, undermines the ability of agencies to protect stream systems and fosters further litigation.

2. All water rights acquired under federal law must be quantified, their relative priority determined, and their legal and hydrologic relationship to state-law based rights must be established.

3. The decree must contain sufficient information for state administration of all federal as well as state water rights. The McCarran Amendment provides a basis for state administration of federal water rights. The language of the McCarran Amendment, 43 U.S.C. § 666(a)(2), defers to the entire body of water law administration procedures of each state, regardless of the forms in which they may exist. *Federal Youth Center v. District Court of Jefferson County*, 575 P.2d 395, 400 (1978). In order for effective administration of water, the State must fully exercise this authority. While the quantification of water rights is important, it is of little use if the decree fails to provide an adequate basis for future administration. The State must know how each water right relates to another with sufficient legal and hydrologic certainty to ensure delivery in accordance with priority and in order to know what water supplies remain for future use. Thus, the final decree in the SRBA must contain those provisions necessary to allow the IDWR to administer the federal and state water rights as decreed.

In the end, the SRBA must effect some finality on each of these points. That finality, however, cannot be left to some indefinite time in the future. Because of the pressing demands on Idaho's water supply, the SRBA must not follow the route of most other general stream adjudications--where the adjudications seem to go on indefinitely. Thus, each branch of government should develop measurable criteria that demonstrate how these goals will be achieved and a time schedule for completion of its duties.

These projections should be evaluated on an annual basis by the Legislature and any deviations from the time schedule should be explained. While the Committee recognizes that it is not possible to predict with a high degree of certainty how long this process will take, nonetheless, some identifiable target for completion is necessary. In this regard, the Committee recommends that the IDWR and SRBA District Court be requested to jointly develop a date certain for the completion of the SRBA.

B. *Funding of the Snake River Basin Adjudication*

Based on the absence of any reliable means of predicting the total cost of the adjudication at this time, the Committee recommends the adoption of the interim funding plan developed by the subcommittee. This recommendation of \$20 million in general fund support is premised on the need for equitable sharing of the costs between the general public and the claimants. Since all citizens of Idaho will benefit from better water management, the State, as a whole, should provide funding equivalent to the amount of filing fees paid by the claimants. Moreover, the Committee believes that the claimants should not bear the additional expenses arising from the federal government's refusal to pay the adjudication filing fee.

The Committee recommends annual oversight of the adjudication continue and that a permanent funding solution be developed over the next five years that eliminates the general fund appropriation. A water use tax should be investigated as one of the permanent funding solutions.

C. *Measures to Streamline and Contain the Expense of the Snake River Basin Adjudication*

The adjudication amendments enacted during the 1994 legislative session contained many measures designed to streamline the adjudication and contain the expense of the SRBA. For example, the amendments clarified the role of the IDWR, encouraged dispute resolution, and eliminated some of the subsidy provided to the United States. The amendments reflect a positive step forward and if fully implemented will provide significant financial relief to the small claimants as well as to all other participants in the SRBA.

Aside from the already enacted adjudication amendments, the Committee recommends legislation addressing which matters are within the SRBA District Court's jurisdiction if this issue continues to be a problem. At present, there is confusion regarding the jurisdiction of the SRBA District Court. This confusion is understandable given the comprehensive nature of the adjudication and the Idaho Supreme Court's statement in *Walker v. Big Lost River Irrigation District* that "once [the] SRBA was commenced, jurisdiction to resolve all of the water rights claims within the scope of the general adjudication is in the SRBA District Court only." 124 Idaho 78, 81 (1994). These factors have led some claimants to assume that any issue involving a water right must be brought in the SRBA District Court. Indeed, some district courts are simply transferring water law cases to the SRBA District Court regardless of whether the case involves a determination of a water right. This trend diverts attention away from adjudication of water rights and has the potential of further derailing the adjudication.

Adoption of the following new section to the adjudication statute would clarify that appeals of administrative decisions by the Director regarding the issuance of a water right and the transfer of a water right are not within the jurisdiction of the SRBA District Court:

NEW SECTION. Appeals of administrative decisions of the department of water resources under section 42-1701A, Idaho Code, the Idaho Administrative Procedure Act, or other challenges to the administrative actions of the department of water resources, shall not be heard in any proceeding under this chapter.

D. *Recommendations to the Judiciary and Department of Water Resources*

The Committee makes the following recommendations to the Judiciary and the IDWR. These recommendations were suggested to the Committee by various participants and warrant the consideration of the respective branches of government.

1. Representation of small entities.

Small family corporations and partnerships have been required to obtain an attorney to appear in the SRBA. The Chief Justice testified, however, that the principal in a family corporation or partnership can submit claims and appear in the SRBA. The Committee encourages the Idaho Supreme Court to issue a rule or clarifying statement regarding this matter.

2. Scheduling of federal claims.

A significant amount of testimony focused on the difficulty the SRBA District Court and IDWR are confronting in processing the over 163,000 claims in the SRBA. At present, water rights are being decreed by reporting area. A reporting area represents an identifiable watershed within the Snake River Basin. The schedule for IDWR to file reports within each reporting area takes into account IDWR staffing and the desire to sequence the reporting of adjacent reporting areas. While the current reporting schedule makes sense in general, the data submitted to the Committee suggests that a few minor modifications to the current schedule might expedite the adjudication.

The United States is the largest player in the SRBA. While it is not possible to accurately state the volume of water claimed by the federal government, it is apparent from a brief examination of the federal reserved water right claims that the volume is likely to be greater than one-third of the total water claimed in the SRBA. Moreover, the priority date of many of the federal reserved water right claims is the earliest priority date within the Snake River Basin. Thus, how these federal reserved water right claims are decreed is likely to affect all other claims.

The Committee has been advised that many of the objections the United States is currently filing against other state water right claims are protective objections because the United States is uncertain how its federal reserved water right claims will be decreed. By scheduling the federal reserved water right claims first, the forty percent objection rate by the United States might be reduced.

Given this fact, the Committee recommends that the SRBA District Court and IDWR consider adjudicating these claims first. Implementation of this recommendation would not require any significant modification of the current schedule. The federal instream flow claims are already filed as one Director's Report. Thus, only the consumptive use claims would have to be reported to implement this suggestion.

3. Scheduling of small domestic and stock water claims.

Approximately two-thirds of the claims in the SRBA are domestic and stock water claims. These claims, however, represent less than five percent of the total water supply claimed in the SRBA. These claims represent a relatively insignificant portion of the total volume diverted but are an enormous drain on resources of all parties, the SRBA District Court and IDWR. The Committee recommends that these claims be reported in a single report and decreed. This would greatly reduce the size of subsequent reports.

4. Scheduling of water rights decreed in prior general stream adjudications.

The Lemhi and Payette Rivers have been the subject of recent general stream adjudications. Since the entire river basins have been adjudicated and they are headwater streams, these decreed water rights should be reported before they become outdated by changes in the water rights.

5. Alternative dispute resolution.

The Committee commends the Supreme Court for its decision to appoint a settlement judge for the SRBA. Alternative dispute resolution procedures are essential to a timely completion of the SRBA. Litigation is not only costly but requires a significant amount of time. A heavy emphasis on settlement alternatives will significantly benefit all participants in the SRBA. This process, however, must be simple and easy to implement.

6. Other procedural mechanisms.

Recognizing that some matters will have to be litigated, the Committee encourages the SRBA District Court to use its power to align parties who are involved in the same issues and appoint lead counsel where possible. Consolidation of issues and parties can help to reduce the overall cost of this proceeding to all parties as well as the state.

7. IDWR Rules.

Some claimants are opposed to Idaho Code §§ 42-1425, 42-1426, and 42-1427 (the "amnesty" statutes). These statutes were adopted by the Legislature in an attempt to streamline the investigation of some of the water rights claimed under state law. Challenges to the statutes may further delay the adjudication unless such challenges are brought in a way that puts at issue how the statutes will be applied. The Committee encourages IDWR to adopt regulations explaining how it will apply the statutes. These regulations would provide a basis for determining whether they are constitutional as applied.

E. *Conjunctive Management of Ground and Surface Water Rights*

Conjunctive management of ground and surface water rights is one of the main reasons for the commencement of the Snake River Basin Adjudication. In fact, the Snake River Basin Adjudication was filed in 1987 pursuant to I.C. § 42-1406A, in large part to resolve the legal relationship between the rights of the ground water pumpers on the Snake River Plain and the rights of Idaho Power at its Swan Falls Dam. *Idaho Power Co. v. State*, 104 Idaho 575, 588 (1983); *In re Snake River Basin Water System*, 115 Idaho 1, 2-3 (1988). The SRBA must proceed in a fashion that advances wise conjunctive management of our ground and surface water.

Historically, conjunctive management has not occurred in Idaho, especially between the Snake River Plain Aquifer and the Snake River. To conjunctively manage these water sources a

good understanding of both the hydrologic relationship and legal relationship between ground and surface water rights is necessary.

Although these issues may need to be resolved by general administrative provisions in the adjudication decrees, they generally relate to two classic elements of a water right--its source and priority. The SRBA should determine the ultimate source of the ground and surface water rights being adjudicated. This legal determination must be made in the SRBA. The IDWR should provide recommendations to the SRBA District Court on how it should do so. Further, the SRBA District Court must determine the relative priority between surface and ground water rights.

If the SRBA proceeds and these issues are not addressed, a major objective for the adjudication will not have been served. Conjunctive administration will be set back, and another generation of ground and surface water users will be uncertain regarding their relationship to each other.

The Committee also recommends adoption of ground water district legislation. The general purposes sought from such legislation are:

1. Establishment of an organization that can develop and implement mitigation plans.
2. Establishment of an organization that can speak for ground water users in both the legislative and legal arena where appropriate.
3. Establishment of the framework for administration of ground water rights.
4. Establishment of a means for implementation and enforcement of ground water measurement.

Those who testified were deeply split over whether participation in the ground water districts should be mandatory and whether the ground water districts should be part of the surface water districts.

The Committee recommends that ground water district legislation be introduced; however, because of the differences that exist over the scope of the legislation between surface and groundwater users, the Committee urges the water users to continue their effort to develop consensus legislation for consideration by the Legislature.

Exhibit F

**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: 92-00021
)	(Interim Administration)
Case No. 39576)	
)	ORDER ON MOTION TO ENFORCE
)	ORDER GRANTING STATE OF
)	IDAHO'S MOTION FOR INTERIM
)	ADMINISTRATION
)	

Holding: Court has jurisdiction to enforce its own orders. Basis for Director's *Order* is ambiguous. The Director is in the best position to clarify any ambiguity through the administrative process, not this Court. Rangen's *Motion* is premature until such time as the basis for the Director's *Order* has been clarified, and it is clear at that time, that the Director acted in violation of this Court's *Order*. In the exercise of discretion, Court is cautious not to set precedence for "reviewing" administrative decisions under the ostensible purpose of enforcing compliance with orders granting interim administration.

**I.
APPEARANCES**

Jeffrey C. Fereday, Michael C. Creamer, Brad V. Sneed, Givens Pursley LLP, Boise, Idaho, for Idaho Ground Water Appropriators, Inc.

Daniel V. Steenson, Ringert Clark Chartered, Boise, Idaho, for John W. Jones, Jr. and Deloris D. Jones, Blue Lakes Trout Farm, Inc., Billingsley Creek Ranch, Buckeye Farms, Inc., and Western Legends LLC ("Spring Users").

Travis L. Thompson, John K. Simpson, Barker, Rosholt and Simpson, LLP, Twin Falls, Boise, Idaho, for Twin Falls Canal Company and Clear Springs Foods, Inc.

W. Kent Fletcher, Fletcher Law Office, Burley, Idaho, for Minidoka Irrigation District.

David Gehlert, Gail McGarry, United States Department of Justice, Denver, Colorado, for United States of America.

James Tucker, Idaho Power Co., Boise, Idaho, James S. Lochhead, Adam T. DeVoe, Brownstein Hyatt & Farber, P.C., Denver, Colorado, for Idaho Power.

II. PROCEDURAL HISTORY

A. On November 19, 2001, the State of Idaho filed a *Motion for Order of Interim Administration and Motion for Order Expediting Hearing* in Basins 35, 36, 42 and 43 pursuant to I.C. § 42-1417.

B. On January 8, 2002, this Court issued an *Order Granting Interim Administration* authorizing the Idaho Department of Water Resources (IDWR) to undertake interim administration in Basin 35, 36, 41, and 43. Soon after, in accordance with Title 42, Chapter 6, Idaho Code, the Director of IDWR (Director) created Water District No. 120 and Water District No. 130. Over the next two years, the Water Districts' boundaries were revised to include a portion of Basin 37 and a portion of Basin 29.

C. The movant in this matter, Rangen, Inc. (Rangen), holds water right nos. 36-15501, 36-02551, and 36-07694, all of which have been partially decreed in the SRBA. The source of these water rights is the Curran Spring, part of the Malad Gorge reach discharging into the Thousand Springs complex.

D. Rangen made delivery calls on its water rights on September 23, 2003, and October 6, 2003. The Director responded with an order dated February 25, 2004 and an amended order dated March 10, 2004. On March 10, 2004, Rangen, the State of Idaho, and parties to the contested case resulting from Rangen's request for administration executed the *Eastern Snake Plain Aquifer, Mitigation Recovery, and Restoration Agreement for 2004*. Pursuant to the *Agreement*, pending delivery calls were stayed until March 15, 2005. On March 14, 2005, the Director rescinded the March 10, 2004, *Amended Order*. After the *Agreement* expired and the stay was lifted, the Director issued a *Second Amended Order* on May 19, 2005, in response to Rangen's calls.

E. On June 3, 2005, Rangen filed with IDWR *Rangen, Inc.'s Petition Requesting Hearing on Second Amended Order of May 19, 2005 and Requesting Appointment of an Independent Hearing Officer* requesting a hearing on the *Second Amended Order*.

F. On August 24, 2005, Rangen, by and through its counsel of record, filed with this Court a *Motion to Enforce Order Granting State of Idaho's Motion for Interim Administration* alleging that IDWR was not administering Rangen's water right 36-07694 according to the partial decree. Rangen was joined in its motion by Minidoka Irrigation District, Twin Falls Canal Company, Clear Springs Foods, Inc. *et al.*, various "spring users," Idaho Power, and, in some respects, the United States of America. The *Motion* was opposed by the State of Idaho and Idaho Ground Water Appropriators, Inc.

III.

MATTER DEEMED FULLY SUBMITTED FOR DECISION

Rangen's Motion was heard on October 14, 2005. The parties did not request any additional briefing in this matter and the Court requires none. Therefore the matter is deemed fully submitted for decision following business day, October 17, 2005.

IV.

DISCUSSION

A. Issue raised in *Motion*.

At issue are the Director's findings of fact in the *Second Amended Order*, which provide:

62. Water right no. 36-07694 was licensed on September 19, 1985, and has an authorized diversion rate of 26.00 cfs. The authorized diversion rate, as licensed, was not based on measurements of the amount of water actually diverted and applied to beneficial use. Rather, the authorized diversion rate was based on an estimate (not an actual measurement) made by George Lemon, a former watermaster for Water District No. 36A, of the discharge from the Curran Spring at or near its seasonal maximum flow in October of 1972. This estimate of the discharge from the Curran Spring was made nearly 5 years before the application for permit to appropriate water was filed for water right no. 36-07694.

63. Based on available records, there was not water available for appropriation at the time or subsequent to the date of appropriation for water right no. 36-07694. Therefore, the Department erred in licensing water right no. 36-07694, and should not have recommended this right for decree in the SRBA. Nonetheless, since the SRBA District Court decreed water right no. 36-07694, Rangen may be entitled to divert water under this right when such water is physically available. However, because water

was not available to appropriate on the date of appropriation for right no. 36-07694, Rangen may not be entitled to have a delivery call recognized against junior water rights.

Second Amended Order at p.14-15. The Director's conclusions of law also provide:

27. Based on available records, there has never been water available for water right 36-07694 (See Finding 63). The exercise of junior priority ground water rights cannot reduce the quantity of water available for water right no. 36-07694 since water has never been available anyway. Therefore, there is no material injury to water right no. 36-07694 caused by the diversion and use of ground water under junior priority rights. Even if water had been available at one time to partially or completely satisfy water right no. 36-07694, the delivery call would still be futile and no material injury would be found. See Conclusion 25.

Id. at 29.

Among other things, the Director concluded in his *Second Amended Order* that water right 36-07694 was licensed and subsequently decreed in error. This conclusion was based on a reexamination of historic spring flow levels at the time the water right was appropriated. Rangen alleges that the Director effectively re-adjudicated water right 36-07694. Rangen asserts that in administering adjudicated water rights, the Director cannot look behind the face of the decree at conditions in existence at the time the right was appropriated to determine how the right should be administered. Rangen seeks an order from this Court enforcing its *January 8, 2002, Order*, which permitted IDWR to administer water rights in accordance with the director's reports or partial decrees as provided by Idaho Code § 42-1417. Rangen's *Motion* only pertains to this particular part of the Director's *Second Amended Order*. Rangen's *Motion* does not put at issue any other basis which may also, or alternatively, support the Director's determination, such as futile call, material injury or the overall application of IDWR's administrative rules on conjunctive management. The various Spring Users appear in support of Rangen's *Motion*.

The State of Idaho in briefing and at oral argument acknowledged that that the Director may not look behind the face of the partial decree in administering water rights. However, the State argues that the Director's findings and conclusion that the water right was issued in error are merely dicta and did not serve as the basis for the *Second Amended Order* and the refusal to deliver Rangen's water right. The State has also raised

the issue of this Court's jurisdiction in accordance with the limitations imposed by I.C. § 42-1401D, which limits the jurisdiction of the SRBA Court regarding review of an agency action of IDWR, and I.C. § 67-5271 of the *Idaho Administrative Procedure Act*, Chapter 52, Title 67, Idaho Code, which requires the exhaustion of administrative remedies prior to seeking review of an agency action.

B. Jurisdiction over Rangen's Motion is proper in the SRBA Court.

Idaho Code §42-1401D does not deprive this court of jurisdiction to enforce its own orders. That statute was enacted in response to the decision in *Sagewillow, Inc. v. Idaho Department of Water Resources*, 135 Idaho 24, 13 P.3d 855 (2000) (Sagewillow I). The statute provides as follows:

42-1401D Jurisdictional limitation. Review of an agency action of the department of water resources, which is subject to judicial review or declaratory judgment under the provisions of chapter 52, title 67, Idaho Code, shall not be heard in any water rights adjudication proceeding commenced under this chapter. Venue and jurisdiction over any such action pending on the effective date of this section [March 2, 2001], or initiated subsequent thereto, shall be in the district court as authorized under the provisions of section 67-5272, Idaho Code, without regard to any other provision of law.

In *Sagewillow, Inc. v. Idaho Department of Water Resources*, 138 Idaho 831, 70 P.3d 669 (2003) (Sagewillow II), the Idaho Supreme Court explained the statute as follows:

In response, the legislature enacted Idaho Code § 42-1401D to provide that judicial review of Department actions that are subject to review under the Idaho Administrative Procedure Act shall not be heard in the Snake River Basin Adjudication district court, but shall be heard in the district court authorized by Idaho Code § 67-5272. Ch. 31, § 2, 2001 Idaho Sess.Laws 47, 48.

Sagewillow, Inc. v. Idaho Dept. of Water Resources, 138 Idaho 831, 835, 70 P.3d 669, 673 (2003). All that is prohibited is review by this Court of IDWR decisions under the *Administrative Procedure Act*. In an appropriate case, therefore, this Court would have jurisdiction to enforce its own orders not involving review of IDWR's actions under the *Administrative Procedure Act*.

Idaho Code § 42-1417 allows any party to the adjudication to motion the Court to permit water rights to be administered on an interim basis pending the entry of a final unified decree in the SRBA. The statute, upon order of the Court, authorizes the distribution of water rights within a water district on an interim basis in accordance with either the director's reports or the superceding partial decrees. IDWR has been administering water rights in Water District 130 pursuant to this Court's January 8, 2002, *Order Granting Interim Administration (Order)*.

The decision to permit administration on an interim basis pending the entry of a superceding final unified decree is not an agency action but rather an action of this Court. The Court's *Order* specifically authorized interim administration pursuant to director's reports or partial decrees. This Court has jurisdiction over the orders it issues during the pendency of the SRBA for two reasons. First, a court retains jurisdiction to enforce its unsuperceded judgments. I.C. § 1-1603 (4) (court vested with power to enforce its judgments and orders). Secondly, the Court's *Order* was not certified as final pursuant to I.R.C.P. 54(b). Within the overall context of the SRBA the *Order* is still considered interlocutory. A court is free to change an order pending entry of a final judgment or in the case of the SRBA, a partial decree. *Farmers Nat. Bank v. Shirey*, 126 Idaho 63, 68, 878 P.2d 762, 767 (1994) (court may reconsider legal rulings before a final judgment is entered).¹ Therefore, to the extent that compliance with a term or condition of this Court's *Order* is clearly at issue, the matter is properly brought before this Court. If for example, IDWR administered water rights according to an old decree, such as the *New International Decree*, rather than according to superceding partial decrees issued in the SRBA, IDWR would be clearly acting contrary to this Court's orders. At the other extreme, issues pertaining to the manner in which IDWR carries out its administrative functions do not directly implicate the terms and conditions of this Court's *Order* and

¹ An issue pertaining to this Court's jurisdiction was raised in the context of the stipulated agreement entered with respect to the federal claims brought under the Wild and Scenic Rivers Act. In those subcases concerns raised by this Court with respect to continuing jurisdiction were distinguishable in several respects. The *Orders of Partial Decree and Partial Decrees* at issue were certified as final pursuant to I.R.C.P. 54(b). The continuing jurisdiction provision was intended to extend beyond the pendency of the SRBA and the entry of a final unified decree. The terms of the stipulation also exceeded beyond merely defining the elements of a water right and specifically addressed how water rights within the water district would be administered.

jurisdiction over those actions or review of those actions may not be “bootstrapped” in under the purview of the Court’s *Order*.

In this case, it is alleged that the Director is acting in contravention of the Court’s *Order* by administering Rangen’s water right according to spring flows existing at the time the right was appropriated as opposed to the right’s decreed elements. Therefore, the terms of this Court’s *Order* permitting interim administration are directly implicated and jurisdiction over the matter is proper.

C. Although jurisdiction is proper, Rangen’s *Motion* is premature until the basis for Director’s *Second Amended Order* has been clarified through administrative proceedings.

After reviewing the Director’s *Second Amended Order*, reading the briefing submitted and hearing the arguments of counsel, it appears that the basis of the Director’s *Second Amended Order* is somewhat ambiguous. Rangen argues that the Director simply refused to administer the water right because the *Partial Decree* and the license which formed the basis for the recommendation were issued in error. Refusal to administer Rangen’s water right on that basis would be contrary to this Court’s *Order* and Idaho law. A partial decree in the SRBA is conclusive as to the nature and extent of the water right. I.C. § 42-1401A (5) and I.C. § 42-1420. In *State v. Nelson*, 131 Idaho 12, 951 P.2d 943 (1998), the Idaho Supreme Court specifically addressed the significance of a partial decree in the SRBA in the context of whether to include a general provision in a partial decree.

Finality in water rights is essential. ‘A water right is tantamount to a real property right, and is legally protected as such.’ An agreement to change any of the definitional factors of a water right would be comparable to a change in the description of the property. . . . A decree is important to the continued efficient administration of a water right. The watermaster must look to the decree for instructions as to the source of the water. If the provisions define a water right it is essential that the provisions are in the decree, since the watermaster is to distribute water according to the adjudication or decree.

Id. at 16, 951 P.2d at 947 (internal citations omitted).

The *Partial Decree* issued for 36-07694 is a judgment certified as final pursuant to I.R.C.P. 54(b). To the extent the license, director's recommendation and *Partial Decree* were alleged to be issued in error; those issues should have been timely raised in the SRBA Court. Collateral attack of the elements of a partial decree cannot be made in an administrative forum. As such, the Director cannot re-examine the basis for the water right as a condition of administration by looking behind the partial decree to the conditions as they existed at the time the right was appropriated. This includes a re-examination of prior existing conditions in the context of applying a "material injury" analysis through the application of IDWR's Rules for Conjunctive Management of Surface and Groundwater Resources, IDAPA 37.03.11 *et seq.* IDWR's Rules for Conjunctive Management are not elements of a water right nor have they been incorporated into the general provision on connected sources.² See *Connected Sources General Provision; Memorandum Decision and Order of Partial Decree*, Subcase 91-00005 (Feb. 27, 2002). Prior existing conditions might be relevant, however, in explaining why in a particular circumstance a call is futile. See *discussion infra*. In this case, it is not entirely clear why the Director included the conclusion that the *Partial Decree* was issued in error in the *Second Amended Order* or if the conclusion served as the basis for the Director's refusal to administer Rangen's water right.

The State argues that the Director's references to the conditions as they existed at the time the water right was appropriated were merely dicta and did not serve as a basis for the Director's *Second Amended Order*. Rangen has three separate water rights originating from the same source, each with a different priority date. Water right 36-15501 was decreed with a priority date of July 1, 1957; water right 36-02551 was decreed with a priority date of July 13, 1962 and water right 36-07694 was decreed with a priority

² In the Basin-Wide Issue 5 proceedings, then Presiding Judge Roger S. Burdick specifically rejected the inclusion of the language "shall be administered conjunctively" in the general provision recommended to define the relationship between ground and surface water for purposes of administration. See *discussion Order on Cross Motions for Summary Judgment; Order on Motion to Strike Affidavits*, Subcase 91-00005 (Basin-Wide Issue 5) pp. 28-30 (July 2, 2001). The concern was that the term "conjunctively" could be construed to refer to (and thus incorporate into a partial decree) IDWR's rules on conjunctive management. *Id.* There was additional concern that the term could be construed a term of art or concept used to describe the combined administration of ground and surface water sources in a manner other than in accordance with the prior appropriation doctrine, as opposed to giving the term its plain ordinary meaning. *Id.*

date of April 12, 1977. The State of Idaho argues that the Director specifically concluded that based on the ground water model:

[T]he delivery call against ground water rights junior in priority to July 13, 1962, to supply water right no. 36-02551 is futile because an insignificant quantity of water would accrue to the entirety of the Thousand Springs to Malad Gorge spring reach (*see* IDAPA 37.03.11.010.08), and since the diversion and use of ground water under rights junior in priority to July 13, 1962, do not significantly affect the quantity of water available for water right no. 36-02551, there is no material injury to water right no. 36-02551 (*see* IDAPA 37.03.11.042.01.c).

Second Amended Order at 28. The State argues that because water rights 36-02551 and 36-07694 are derived from the same source, if a delivery call is futile for 36-02551 with a July 13, 1962, priority, by implication a delivery call for 36-07694 with a junior priority of April 12, 1977, would also be futile. This Court agrees generally with the analysis; however, this Court is not making implied findings or conclusions on behalf of the Director. In addition, to the extent the Director is relying in part on a re-examination of the underlying validity of Rangen's water right as a basis for his determination, this point should be clarified by the Director, since other similarly situated parties are participating in Rangen's *Motion*.

Another plausible interpretation of the Director's *Second Amended Order* is that the references to the existing conditions were included to explain why the call for water right 36-07694 was futile. If, for example, spring flows were declining at the time the water right was appropriated as a result of changes in irrigation delivery practices on the Eastern Snake River Plain, the Director's conclusion may explain why curtailment of water rights on the Eastern Snake River Plain would not result in resumption of flows to the source of the springs. If some of the source historically supplying the spring flow was in excess of naturally occurring flows and created by irrigation practices no longer in use, curtailing water users on Eastern Snake River Plain may not result in the resumption of spring flows. In such a case a call would be futile. In that case, the Director's conclusion is not a re-examination of an element of the underlying water right but instead an explanation as to why the curtailment of juniors would be futile.

Because there are multiple explanations regarding why the Director may have included the conclusion that the *Partial Decree* for Rangen's water right was issued in error, and because it is unclear the extent, if any, to which the Director relied on the conclusion, the Court finds the *Second Amended Order* to be ambiguous for purposes of Rangen's *Motion*. The purpose of Rangen's *Motion* is to enforce the terms of this Court's *Order*, not have this Court engage in a *de facto* administrative review of the underlying basis for the Director's action.

V. CONCLUSION

In sum, at this stage in the administrative proceedings, the basis for the Director's *Second Amended Order* is ambiguous. Rangen has already invoked the administrative process and has not exhausted its administrative remedies to the point where the basis for the Director's *Second Amended Order* can be clarified. The Director is in the best position to clarify the basis for his *Second Amended Order*, not this Court. Accordingly, Rangen's *Motion* is premature at this time. Once the Director has been given the opportunity to respond to the issues raised by Rangen and clarify the basis for his *Second Amended Order*, it may then be appropriate for Rangen to come back into this Court, if Rangen determines that its *Partial Decree* is being disregarded in contravention of this Court's *January 8, 2002, Order*.

Prior to the entry of a final unified decree all administration in the Snake River Basin will be pursuant to orders of interim administration pursuant to I.C. § 42-1417. In an abundance of caution and in the exercise of its discretion, this Court is reluctant to set a precedence for "reviewing" the Director's decisions every time there is a dispute concerning administration under the ostensible purpose of enforcing compliance with its various orders granting interim administration. The SRBA Court is not the proper forum for hearing such disputes unless it is clear that the Director has acted in violation of one of this Court's orders. In this case, the basis for the Director's conclusion is not entirely clear.

VI.
ORDER

Based upon the foregoing, Rangen's *Motion* to have this Court enforce its *Order Granting Interim Administration* issued January 8, 2002, is premature at this time and is therefore **Denied**.

Dated November 17, 2005

/s/ John M. Melanson

John M. Melanson
Snake River Basin Adjudication
Presiding Judge

Exhibit G

Vincent Deposition

Tr. at p. 49, Ins. 9-11

Tr. at p. 50, Ins. 22-25

Tr. at p. 51, Ins. 1-9

Tr. at p. 77, Ins. 3-6

Tr. at p. 78, Ins. 7-22

Tr. at p. 80, Ins. 4-7

Tr. at p. 81, Ins. 24-25

Tr. at p. 82, Ins. 1-15

Tr. at p. 188, Ins. 5-16

Tr. at p. 190, Ins. 12-25

Tr. at p. 191, Ins. 1-8

1 Rick focused his efforts on the drain
2 well issue.

3 Allan was focused primarily on the A & B
4 scenario, and I asked him to help me on a couple of
5 findings dealing with well construction. He also
6 did the analysis I mentioned earlier of the
7 historical trends in diversions. That was
8 Attachment C.

9 Q. Let's turn back to the order. If you
10 could turn to paragraph 18. That's the first
11 paragraph identified that you worked on.

12 I guess talking about incidental
13 recharge to the ESPA, do you agree that occurs
14 when -- well, a type of incidental recharge water
15 occurs from rivers, streams, irrigation, reservoirs,
16 that all becomes part of the ground water in the
17 ESPA?

18 A. I'm sorry. Incidental recharge, is that
19 mentioned in paragraph 18?

20 Q: Yeah. Do you know what incidental
21 recharge is?

22 A. I do, yes.

23 Q. Do you understand that that becomes part
24 of the ground water?

25 A. Sure. Where it occurs, yes.

1 recognize the last sentence and I believe part of
2 the first sentence. But as I indicated earlier,
3 this paragraph was changed.

4 Q. What did it say before it changed?

5 A. I don't recall specifically. I think it
6 said much the same. In fact, I recognize the third
7 sentence. The second sentence I did not author.

8 Q. Do you know who did?

9 A. I don't.

10 Q. How about the first sentence? Do you
11 have any familiarity with that?

12 A. I guess I feel that the statement is
13 likely true based on what we observe in aquifer
14 discharge for the reach from Milner to King Hill.
15 But I don't know specific water-level data to
16 support that.

17 Q. Okay. So this is just a general
18 characterization?

19 A. I have no doubt that that is true. I
20 believe that's likely a true statement, but I don't
21 have -- I did not author the sentence, and I don't
22 know -- I don't have supporting data for it.

23 Q. Okay. So you don't know what
24 information was relied upon for this statement?

25 A. I don't.

1 Q. And would you agree that appropriation
2 of unappropriated water in the aquifer occurs
3 without regard to the source of the water in the
4 aquifer?

5 A. Appropriation of unappropriated water
6 occurs without regard to the source?

7 Q. Correct.

8 MS. McHUGH: Objection. Legal conclusion.

9 Q. (BY MR. THOMPSON): You can answer.

10 A. When you pump water from a well, it
11 doesn't know whose water it is? Is that what you're
12 asking me?

13 Q. Right. If you go out and get a water
14 right, pump from the aquifer, from the ESPA.

15 A. Could you rephrase the question?

16 Q. Yeah. Would you agree that that
17 appropriation of water occurs when a well pumps
18 water from the aquifer; water right's established in
19 the aquifer without regard to the source of where
20 that water originally came from?

21 A. I suppose.

22 Q. In this paragraph your statement -- I
23 guess what -- did you draft this paragraph?

24 A. The last sentence. And I drafted -- I
25 drafted a version of this paragraph. And I

1 Q. Okay.

2 A. Again, I think that aquifer discharge
3 from the Milner to King Hill reach, those data lead
4 me to believe that that's an accurate statement.

5 Q. And what do you define as pre-irrigation
6 development levels? Or do you know, I guess, if you
7 didn't write this sentence?

8 A. I don't know. I suppose we're talking
9 about pre 1900. 1880, maybe.

10 Q. Pre statehood, pre development of Idaho?

11 A. I don't know.

12 Q. I guess what's the significance of this
13 statement?

14 A. I think it points to the fact that when
15 the irrigation district was developed, water levels
16 were at a high. The aquifer was at its maximum.
17 And I think that's a factor in looking at the
18 problems that A & B has experienced.

19 Q. How is that factor considered?

20 A. Well, there have been ground water
21 declines since the project was constructed. And
22 we've been asked to look at those ground water
23 declines. There are a variety of causes for
24 water-level declines. I think we speak to that in
25 some of the other findings.

1 individual townships and what the trends were in
 2 those townships.
 3 Q. Let's jump to 63.
 4 Did you review A & B's partial decree
 5 for its water right 36-2080?
 6 A. I did not.
 7 Q. Why didn't you?
 8 A. I was focused on the hydrogeologic
 9 setting and issues of well design and well
 10 construction, as I mentioned earlier. And the
 11 information that I came upon was not -- was not in
 12 the partial decree.
 13 Q. So are you familiar with the rate of
 14 delivery when there's a diversion of 1100 cfs as
 15 allowed by their water right?
 16 A. Yeah. When we spoke with Dan Temple on
 17 January 4, I think he indicated it was .88 miner's
 18 inch.
 19 MR. THOMPSON: I'll mark this.
 20 (Exhibit 46 marked.)
 21 Q. (BY MR. THOMPSON): Do you recognize
 22 this exhibit, Mr. Vincent?
 23 A. Yes. Those are my notes from our
 24 January 4th meeting with Dan Temple.
 25 Q. And did you identify a rate of delivery

1 in your notes here --
 2 A. Yes.
 3 Q. -- when the district delivered 1100 cfs?
 4 A. Yes, it looks like I recorded that Dan
 5 was indicating that they historically diverted
 6 1100 cfs, which is 0.88 inch, miner's inch.
 7 Q. That's my question. If a water right,
 8 if a decree allows more than .75 miner's inch and
 9 that amount can be diverted and beneficially used,
 10 isn't that the, quote, "maximum rate of delivery"?
 11 A. Well, water rights are a little bit out
 12 of my realm. That is the maximum, but it's not a
 13 guaranteed entitlement.
 14 Q. So this last sentence in 63 where you
 15 state that .75 represents the maximum rate of
 16 delivery, if that's not identified by the water
 17 right, that's -- that conclusion could change?
 18 A. It appears to be a system constraint,
 19 rather than a water right constraint.
 20 Q. So it's not your opinion that A & B's
 21 only entitled to .75 miner's inch per acre?
 22 A. No.
 23 Q. I guess did you review the pumping
 24 records -- or let's talk about this statement here.
 25 I have a question about your notes. Look in the

1 middle there. It says, "Tim Luke."
 2 I guess could you just read that for me,
 3 identify that?
 4 A. Yeah. I apologize. I wasn't
 5 anticipating that anyone would have to read these
 6 except for myself.
 7 It says, "Tim Luke said that Virgil
 8 Temple said can only deliver 0.75 inch so could not
 9 have delivered 0.88 inch equals 1100 cfs." That was
 10 the question that Tim asked.
 11 And the response was that -- from Dan --
 12 1,095 or 1,098 -- basically Dan said, "We did
 13 deliver 1100 cfs."
 14 Q. So what was Tim referring to there? Did
 15 he say?
 16 A. I think apparently -- I don't know.
 17 Q. Okay. I guess you talked about you
 18 looked at the definite plan report a little bit.
 19 Did you review the peak capacity design
 20 factors in that report? Do you recall?
 21 A. I didn't.
 22 Q. But you reviewed the pumping records?
 23 A. In the definite plan report?
 24 Q. A & B's pumping records, the documents
 25 they provided.

1 A. The definite plan was 1955; right?
 2 Q. Right.
 3 A. Okay.
 4 Q. But apart from that, you reviewed
 5 pumping records provided by A & B?
 6 A. I did review some of the data. It
 7 wasn't my main focus.
 8 Q. Okay.
 9 A. That, again, was Tim Luke's scope.
 10 Q. You didn't look to compare the actual
 11 design and size of the wells, whether or not they
 12 exceeded that peak capacity from that definite plan
 13 report?
 14 A. No, I didn't.
 15 Q. Let's look at paragraph 64.
 16 We'll mark this.
 17 (Exhibit 47 marked.)
 18 Q. (BY MR. THOMPSON): Do you recognize
 19 Exhibit 47, Mr. Vincent?
 20 A. Yes.
 21 Q. Can you identify it?
 22 A. It looks to be a page out of the
 23 Hydrology Appendix, the 1985 Hydrology Appendix.
 24 That's page 43.
 25 Q. I guess is it your understanding that

1 the current total water supply of A & B that's
2 diverted at a maximum rate of 970 cfs can be
3 delivered equally to all those acres appurtenant to
4 that water right?

5 A. Can you -- I'm sorry. Can you repeat
6 that?

7 Q. Yeah. Is it your understanding that the
8 current total water supply for A & B at its maximum
9 diversion rate of 970 cfs, whether or not that can
10 be delivered equally to all 62,000 acres under its
11 water right?

12 A. I doubt it.

13 Q. Are you aware that the irrigation system
14 under that water right was acquired and is
15 represented by 177 separate irrigation systems?

16 A. Approximately 177 wells, yes.

17 Q. And you're aware of the diversion rate
18 per acre A & B's entitled to under its water right.
19 It's stated on your notes.

20 And you understand that to be .88
21 miner's inch per acre?

22 A. Yeah. It's -- it's one water right for
23 1100 cfs for 62,000-some-odd acres -- -604.3 acres.

24 Q. In paragraph 64, what do you mean by
25 that quoted quote "stated farm delivery capacity"?

1 A. I'm referring to the Bureau of
2 Reclamation reference to the letter.

3 Q. And is that reflected in this page 43?

4 A. Yes.

5 Q. I guess what's the basis besides that
6 that you have to conclude that .75 miner's inch per
7 acre is a farm delivery capacity of A & B for those
8 acres under its water right?

9 A. It's really independent of the water
10 right. It appears to be a system constraint based
11 on this paragraph.

12 Q. Did you try and verify that statement,
13 do any investigations of the actual delivery system
14 at A & B?

15 A. I did not.

16 Q. Why not?

17 A. I had no reason to doubt the veracity of
18 the statement.

19 Q. You accepted what was stated in this
20 planning study without trying to determine the
21 information that was supporting it?

22 A. It indicates that the district stated
23 that they can't support a peak net farm delivery in
24 excess of that amount. I have no reason to suspect
25 that that's not true.

1 Q. But you went back and looked at some of
2 the district's annual pump reports, information they
3 provided?

4 A. Uh-huh.

5 Q. Let's turn to Exhibit 36 in that binder.

6 A. Exhibit 36.

7 Q. Do you recognize this document,
8 Mr. Vincent?

9 A. It looks to be a spreadsheet. It's
10 labeled "A & B Irrigation District, 2006 Annual Pump
11 Report System Performance During Peak Period."

12 Q. And I guess looking down at this column
13 "Criteria Available per Acre at Turnout," doesn't
14 this record, I guess, reveal that A & B has the
15 physical ability -- farm delivery capacity to
16 deliver more than .75 miner's inch per acre to
17 various wells?

18 A. I don't know what this means. I don't
19 know what "criteria available per acre" means. I
20 don't know whether that is water that actually went
21 through the turnout or whether that's just water
22 that could -- that is available that's perhaps in
23 excess of three-quarters inch. I don't know what it
24 means.

25 Q. Okay. How far -- did you go back and

1 look at any other reports over time, look at those
2 prior years?

3 A. Annual pump reports?

4 Q. Yes.

5 A. Yeah. As I stated previously, I just
6 looked at the 2007 pump report. And I don't know
7 that I looked at this spreadsheet. There's another
8 spreadsheet -- or sheet within the overall worksheet
9 that I looked at dealing with well construction.

10 Q. Well, looking at this spreadsheet, over
11 at the far left side, we've got I think the fourth
12 column, "Inches Required to Deliver .75 Inch Per
13 Acre at Turnout."

14 A. Yeah.

15 Q. And then we've got two columns over,
16 "Inches Available at Turnout."

17 A. Yeah.

18 Q. Would you recognize that to be the water
19 available at the farm delivery point?

20 A. It would appear that is the case, yes.

21 Q. And I think the criteria is just taking
22 those inches available at the turnout and dividing
23 it by the current allotment acres.

24 A. Okay.

25 Q. So I'm just -- I don't know if you

1 my decision.

2 Q. Let's just read that second sentence, if
3 you wouldn't mind.

4 A. "However, the USBR, which developed the
5 A & B project, stated in a 1985 report that 0.75 of
6 a miner's inch is the maximum rate of delivery."

7 Q. And that -- if they're just basing it on
8 that 1985 planning study, that's the only
9 information that statement's relying on, would it
10 change based on the information you know now?

11 A. And had I been around to edit this, I
12 would have corrected that, because in reality the
13 Bureau quoted the district and the letter that the
14 district wrote. And the district said that they
15 couldn't handle more than three-quarters of a
16 miner's inch. So...

17 Q. Couldn't support it for the extension
18 lands?

19 A. No. For the entire project.

20 Q. And that's my question. Looking at the
21 information we went through today -- the pump
22 reports, the records that show deliveries more than
23 .75 miner's inch, the water right that allows for
24 it -- you still stand by your conclusion that
25 physically A & B can only deliver .75?

1 A. It's not my conclusion. It's something
2 that was written by the irrigation district and
3 referred to by the Bureau. I -- I'm trying to stay
4 objective here, stick to findings of fact.

5 Q. Sure. And that statement in that
6 Bureau's report from that letter, you didn't verify.

7 Is that normal procedure when you take
8 on a project, there's some question about whether or
9 not this is actually true or not?

10 A. This is a -- this is a Bureau-developed
11 project. I have no reason to doubt the veracity of
12 that statement.

13 Q. Well, your own report says that the
14 diversion rate, on average, would supply .77 miner's
15 inch average across the project.

16 A. Uh-huh.

17 Q. Doesn't that bring into doubt that
18 statement that they physically can only deliver .75?

19 A. Well, I guess there's other
20 possibilities. There are possibilities that there
21 are more acres being irrigated than 62,604. That's
22 a possibility. I don't know. I don't know that the
23 irrigation district knows.

24 Q. What they can deliver?

25 A. I don't know that they know how many

1 acres they're delivering to.

2 Q. My question: Do you think they know
3 what they can deliver physically, what they're
4 capable of delivering on an inch-per-acre basis to
5 the farmer's headgate?

6 A. I think they know, yeah. I didn't write
7 that.

8 Q. Well, you wrote the finding in the order
9 that supports that.

10 A. And I quoted it.

11 Q. If the district could physically deliver
12 more than .75 miner's inch, would that change your
13 conclusion, if you knew that today?

14 A. We're looking at this in the context of
15 whether there's shortage. And I still think that
16 that's a relevant finding of fact because we're
17 trying to evaluate whether or not the district is
18 water-short here.

19 Q. So you're willing to defend at hearing
20 that the maximum rate of delivery A & B can
21 physically accommodate is only .75 miner's inch?

22 A. I'm willing to defend the fact that that
23 quote was extracted from a Bureau document, and it's
24 a reference to a letter that apparently was written
25 by the irrigation district. And that quote appears

1 not once, but twice in that same document. I don't
2 know beyond that. And I don't say I know beyond
3 that. It is a finding. It's for the consideration
4 of -- consideration by the director.

5 Q. Did you ever question it? I mean, given
6 your notes, given the water right, given all the
7 information supplied to you that "Hey, maybe they
8 can deliver more than .75 miner's inch. I should
9 look into that further"? Did that ever cross your
10 mind?

11 A. We did. We asked Dan Temple.

12 Q. And he said they couldn't deliver more
13 than .75?

14 A. And he said that they could deliver .88.

15 Q. So they could deliver?

16 A. That's what he said.

17 Q. Okay.

18 A. Dan said this. I don't know whether it
19 was Dan or Virgil or who they talked to who wrote
20 the letter; they said something else.

21 Q. Didn't occur to you to go back and look
22 at the historical records to see "Wow, let's see
23 what they can actually divert and deliver"? All
24 that information was provided.

25 A. Again, you have to know what acreage

1 you're delivering to.
 2 Q. And those pump reports identify the
 3 acreage for those well systems.
 4 A. Dan -- Dan doesn't know exactly where
 5 the water goes. When he looks at how much water
 6 each person -- each water user is entitled to, he --
 7 he has some -- he uses a number to come up with
 8 that -- that amount. So he's saying it's
 9 three-quarters inch based on 600 acres. But whether
 10 or not the water is applied to 600 acres, I don't
 11 know, and I'm not convinced Dan knows.
 12 Q. So based on those pump reports, you
 13 don't think that that's accurate, the acres stated,
 14 what's diverted, what's delivered to the turnout?
 15 A. I'm not saying it's inaccurate. I stand
 16 by the fact that that quote was extracted from a
 17 Bureau document. And I guess it's relevant, in my
 18 mind, to the issue of whether there's a shortage.
 19 Q. That's the only analysis that the
 20 Department did into the physical capabilities of the
 21 district to deliver water to each farm turnout, the
 22 stated farm capacity, relying upon that letter
 23 referenced in that planning study?
 24 A. Again, I don't know. That was -- that
 25 was -- you know, when -- with all the water

1 MR. THOMPSON: So we can assume that
 2 finding -- that sentence, paragraph 18, is drafted
 3 by the director?
 4 MR. BROMLEY: I don't know if you can assume
 5 or not.
 6 MR. THOMPSON: Do you know?
 7 MR. BROMLEY: I can't tell you. I don't
 8 know.
 9 MR. THOMPSON: Okay. Well, we may need to
 10 look further into that.
 11 Anything else? I mean, there's just a
 12 question in my mind. The findings of fact, people
 13 that are identified as drafting these paragraphs,
 14 there's a question as to --
 15 MR. BROMLEY: One sentence. That's your
 16 question.
 17 MR. THOMPSON: Well, there's others. But
 18 I'll bring that up with Rick.
 19 I don't have any further questions.
 20 Thank you, Mr. Vincent.
 21 MS. McHUGH: Off the record for a quick
 22 second.
 23 (Recess.)
 24 MR. MERRILL: Back on the record.
 25 ///

1 distribution information, that whole section in the
 2 order, I wrote that one finding. Tim Luke was the
 3 author of many other findings that dealt with water
 4 delivery and water quality.
 5 Q. Did you and Tim discuss that finding?
 6 A. We did.
 7 Q. Did he have a question saying, "Wow, you
 8 know, looking at this discharge data, looking at
 9 their delivery records, they deliver more than .75
 10 miner's inch to certain well systems"?
 11 A. He didn't communicate that to me.
 12 Q. Who drafted the reasonable pumping level
 13 sentence in paragraph 18?
 14 A. I don't know, but it wasn't me.
 15 MR. THOMPSON: Okay. We'd like to know who
 16 did. So you guys can look into that.
 17 Are there parts of the findings of fact
 18 that somebody besides those people on that list
 19 drafted that you're aware of?
 20 MR. BROMLEY: I think we've disclosed,
 21 Travis, who drafted what, what their participation
 22 was with certain paragraph numbers, attachments.
 23 But I think ultimately, Travis, one thing to
 24 consider is that the order was signed by the
 25 director.

1 EXAMINATION
 2 BY MR. MERRILL:
 3 Q. Mr. Vincent, my name is Matthew Merrill.
 4 We just met this morning. I represent the City of
 5 Pocatello. I'd like to ask you a few follow-up
 6 questions. I'll try to avoid being duplicative. I
 7 apologize if I am at some point here. You can just
 8 remind me.
 9 A. Okay.
 10 Q. I'd like to begin with a quick follow-up
 11 on your experience and education. You described it
 12 in some detail this morning.
 13 Based on your experience and education,
 14 do you consider yourself an expert in hydrogeology?
 15 A. Yes.
 16 Q. Do you have any opinions on whether or
 17 not the Unit B at the A & B Irrigation District --
 18 and I'll just refer to it as Unit B from now on --
 19 employs a reasonable means of diversion, speaking in
 20 terms of the present day?
 21 A. Yeah, I -- I don't get involved in fuzzy
 22 words like "reasonable." I don't really have an
 23 opinion about that.
 24 MR. KORENY: Good for you.
 25 Q. (BY MR. MERRILL): Would you please turn

Sullivan Deposition

Tr. at p. 66, Ins. 7-14

Tr. at p. 68, Ins. 1-10

1 And alternatively, if you want to
2 operate a well or construct a well at some lesser
3 level, not spend as much money, and you can -- you
4 can do that and use -- and plan on using the soil
5 profile.

6 And I think the same thing goes --
7 we're talking about design. And the same thing
8 can go with operation. If you have a well that
9 for whatever reason is not able to keep up with
10 the peak demand or meet the peak day or peak week
11 demand, you can operate it in such a way that --
12 that you can use the soil moisture to meet the
13 crop demands.

14 Q. Do you know how the wells on the A & B
15 project were designed? Were they designed to take
16 into account the soil profile?

17 A. I don't know.

18 Q. Do you know if they were designed to
19 meet peak demand?

20 A. I think that was a consideration.

21 Q. So would you agree, then, that they
22 were designed to meet peak demand?

23 A. Well, in the various planning
24 documents, they had generally talked about the
25 numbers of wells that were going to be needed, and

1 there was some discussion of the peak of the crop
2 requirements, not only the annual crop
3 requirements, but the monthly crop requirements
4 and the numbers of wells that it would take to
5 deliver that rate. So yeah, I think that was a
6 consideration.

7 Q. Okay. If a well on the A & B project
8 delivered .88 inches per acre to a parcel of land
9 on A & B within the A & B project during the peak
10 demand period, could that water be put to
11 beneficial use?

12 A. Sure. I mean, either by meeting crop
13 demand or going into soil moisture to be used
14 later.

15 Q. And would that be consistent with how
16 the water right was decreed in the SRBA?

17 MS. KLAHN: Objection. Calls for a legal
18 conclusion.

19 Q. (BY MR. SIMPSON): Based upon your
20 interpretation of the partial decree, as you
21 described earlier in your testimony that you
22 undertook, would that be consistent with your
23 perspective of the partial decree?

24 MS. KLAHN: Objection. Vagueness.
25 Are you talking back to your first

1 question about delivering .88 as opposed to some
2 other amount?

3 MR. SIMPSON: Well, I'm just asking him
4 with respect to his -- he testified that .88
5 inches per acre could be delivered and put to
6 beneficial use.

7 Q. And I'm asking him, based upon his
8 interpretation of A & B's partial decree for water
9 right 36-2080, is that consistent with the decree?

10 A. I mean, from my standpoint the issue
11 is what happens in the case of a delivery call.
12 But to answer your question, I don't believe the
13 decree has any particular restriction on the rate
14 that you can take out of a particular well.

15 Q. Mr. Sullivan, I'd refer you to
16 section 2.2.1 (sic) of your analysis of the A & B
17 water rights.

18 MS. KLAHN: What was it?

19 MR. SIMPSON: 3.2.1.

20 MS. McHUGH: Oh.

21 MS. KLAHN: Okay.

22 THE WITNESS: Okay.

23 Q. (BY MR. SIMPSON): Second paragraph,
24 last sentence.

25 A. Uh-huh.

1 Q. Would you read the last sentence for
2 me, please.

3 A. "A & B's water right No. 36-2080
4 converts to an average diversion rate of .88 --
5 .88 miner's inch per acre."

6 Q. Okay. And that number is consistent
7 with your earlier testimony that during the peak
8 irrigation demand that A & B could beneficially
9 use that amount; correct?

10 A. Yes.

11 Q. Okay. The analysis that you went
12 through in your report requires that an irrigator
13 place water into soil moisture -- into the soil
14 moisture profile early in the season to make up
15 for any reduction that might occur during the
16 middle of the irrigation season; correct?

17 A. Sorry. Can you restate that?

18 Q. Your analysis that you've completed in
19 your direct report and your rebuttals that you've
20 provided requires that an irrigator place water
21 into the soil profile early in the season to make
22 up for shortages that would occur in the middle of
23 the irrigation season; correct?

24 A. Well, I don't think I'm requiring the
25 farmers to do anything. The issue is what the

Raymondi Deposition

Tr. at p. 44, Ins. 11-20

1 And paragraph 11(f), which I'm handing
2 you now to review, discusses the A & B drawdown
3 scenario. If you could review paragraph 11(f).

4 And is that consistent with your
5 recollection of the findings within that scenario?

6 A. Not exactly.

7 Q. Okay. What portions of that paragraph
8 do you believe are inconsistent with the A & B
9 scenario?

10 A. I think that a phrase needs to be added,
11 something like "Sources of" -- well, let me start
12 the sentence. "Sources of drawdown beneath A & B
13 Irrigation District, and the analysis therein,
14 indicates that up to 84 percent of the ground water
15 declines as a result of pumping experienced at A & B
16 are due to the effects of ground water pumping from
17 others."

18 MS. KLAHN: Just for clarification in the
19 record, is that what the motion to proceed says or
20 is that what Mr. Raymondi thinks it should say?

21 MR. SIMPSON: I'll let him clarify that.
22 That is a good question.

23 MS. KLAHN: I wasn't clear when he quoted it,
24 what he was doing, so...

25 THE WITNESS: He asked me to read this, and

1 he asked me if it was accurate. And I said it was,
2 except that it needs a phrase interjected. So what
3 I did is I read a sentence, and I interjected the
4 phrase that I thought needed to be interjected.

5 Q. (BY MR. SIMPSON): And that phrase or
6 the portion thereof that you interjected was what?

7 A. "Caused by pumping," I believe.

8 Q. Okay. Okay.

9 A. I should have kept you guys with me.

10 Q. Mr. Raymondi, with respect to finding of
11 fact 29, what's the source of this information?

12 A. I believe that's the definite plan
13 report, but I'd have to check to make sure.

14 Q. And by "the definite plan report," can
15 you identify the year and the date for that report?

16 MS. KLAHN: John, isn't there just one
17 definite plan report?

18 MR. SIMPSON: I think there is, but I'm
19 just...

20 THE WITNESS: I don't know where we've put
21 our references.

22 MS. KLAHN: Can you find it?

23 THE WITNESS: Can I find the references?

24 MR. BROCKWAY: Look under finding of fact
25 124.

1 THE WITNESS: It's defined in finding of fact
2 124. I thought we listed our references somewhere,
3 but I'm not seeing them right now.

4 Q. (BY MR. SIMPSON): Okay. So it's the
5 1955 report that you're referring to?

6 A. Right.

7 Q. Okay. And with respect to that
8 information or information contained in that report,
9 did you undertake any other independent verification
10 of the facts that you relied upon and inserted into
11 this order?

12 A. I believe that -- are we back at a
13 certain finding of fact?

14 Q. We're back at paragraphs 27 through 30.

15 A. Okay. I believe I used also the Nace
16 report for that --

17 Q. Okay.

18 A. -- for some of these.

19 Q. All right. Fair enough. With respect
20 to finding of fact 28, that planning report, I
21 presume, is what you relied upon for that finding as
22 well?

23 A. I think it's in there and in the Nace
24 report.

25 Q. Okay. And did the Nace report and this

1 planning report that you've identified, did they
2 come to the conclusion that the A & B project was in
3 fact viable?

4 A. Yes.

5 Q. With respect to the information
6 contained in paragraph 30, what is the source of
7 that information?

8 A. I believe some of that was from my notes
9 from the discussion with Dan Temple, some of it was
10 from other Bureau reports.

11 Q. Okay. If you could turn to finding of
12 fact 18 on page 5.

13 Did you have any participation in the
14 drafting of this paragraph?

15 A. No.

16 Q. Did you review this paragraph?

17 A. Yes.

18 Q. Do you know who authored this paragraph?

19 A. I believe Sean wrote part of it, but I
20 don't know beyond that.

21 (Ms. McHugh and Mr. Petrich join the
22 proceedings.)

23 MR. SIMPSON: Counsel, I believe in
24 Mr. Vincent's deposition he denied authorship of
25 paragraph 18.