



WATER-RIGHT DOCKET

Yellowstone National Park

Docket No: 11

IDAHO SECTION

State Water Rights Documentation

00-00-2011: Notice of Filing Federal Reserved Right Claims in Basin 21 (YELL Claims)

NOTICE OF FILING FEDERAL RESERVED RIGHT CLAIMS IN BASIN 21 (YELLOWSTONE NATIONAL PARK CLAIMS)

INTRODUCTION

The United States of America ("USA") and the State of Idaho ("State") entered into the *Water Rights Agreement Between the State of Idaho and the United States for Yellowstone National Park* ("Yellowstone Agreement"), which is attached hereto as Exhibit A. At the time the Yellowstone Agreement was entered into, Idaho Code § 42-1409(3) (1990) provided that a claimant of a water right reserved under federal law may submit a negotiated agreement between the State and the claimant in lieu of a Notice of Claim. The Yellowstone Agreement, which was entered into in 1992, was not previously filed with the SRBA Court, but was on file with the Idaho Department of Water Resources ("IDWR"). Idaho Code § 42-1409(3) was amended in 1994. As a result of the amendment, negotiated settlements between the State and USA were no longer permitted in lieu of a Notice of Claim. While the Agreement was signed in 1992, when a negotiated settlement was an adequate means of claiming a water right, the Department, consistent with the 1994 statutory amendments, has also filed with the Snake River Basin Adjudication ("SRBA") District Court, eleven claims to federal reserved rights in Basin 21. Copies of the Director's Reports attached hereto as Exhibit B.

INSTRUCTIONS FOR TAKING A CLAIM TO COURT

What do I do if I disagree with a federal reserved water right claim?

If you disagree with any element of the claim to a federal reserved water right in Basin 21 and want to be heard in court, file an objection with the SRBA Court. Objections must be made on the standard objection form available from any IDWR office or from the SRBA Court. You may also download a copy of the objection form from the SRBA Web Site at www.srba.state.id.us.

Your **objection** to the federal reserved water right in Basin 21 must be **received** by the SRBA Court **on or before November 30, 2011**.

What do I do if I want to participate in the court case on a claim to a federal reserved right?

If you want to be involved in the court case on the claim to a federal reserved right, you must file either an objection or a response by the dates provided in this notice. Responses must be made on the standard response form available from any IDWR office or from the SRBA Court. You may also download a copy of the response form from the SRBA Web Site at www.srba.state.id.us.

Your **response** must be **received** by the SRBA Court **on or before January 31, 2012**.

What happens if there are no objections to the federal reserved water right claims?

An evidentiary hearing on the uncontested federal reserved water rights in Basin 21 will be held. A partial decree will be issued following this hearing.

How will I know about the proceedings on the claim to the federal reserved water right to which objections were filed?

A notice will be mailed to you for court dates on the claim where you filed an objection or a response. You will not receive notice of court dates on any other claims to federal reserved rights for which you did not file an objection or response.

Additional information regarding federal reserved water right claims can be found on the SRBA Web Site at www.srba.state.id.us.

Note: The SRBA Court publishes a monthly Docket Sheet listing all objections and responses filed. It does not list court dates for individual water right cases, but provides general information helpful to all participants in the SRBA.

The Docket Sheet is available at your county courthouse and all IDWR offices, or you may subscribe by contacting the SRBA Court or IDWR. The annual subscription fee is \$7.50. The Docket Sheet is also available on the SRBA Web Site at www.srba.state.id.us.

ADDITIONAL INFORMATION

If you have questions about the SRBA, public information brochures are available at any IDWR office. You may also want to consider contacting an attorney to assist you if you have questions regarding water rights claimed under federal law.

Snake River Basin Adjudication

District Court

253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707
(208) 736-3011

Idaho Department of Water Resources

322 East Front Street
Box 83720
Boise, Idaho 83720-0098
(208) 287-4800
(800) 451-4129

Idaho Department of Water Resources

Western Region

2735 Airport Way
Boise, Idaho 83705-5082
(208) 334-2190

Idaho Department of Water Resources

Northern Region

7600 N. Mineral Drive, Suite 100
Coeur d'Alene, Idaho 83815
(208) 762-2800

Idaho Department of Water Resources

Southern Region

1341 Fillmore, Suite 200
Twin Falls, Idaho 83301-3380
(208) 736-3033

Idaho Department of Water Resources

Eastern Region

900 North Skyline, Suite A
Idaho Falls, Idaho 83402-1718
(208) 525-7161

CLARK COUNTY COURTHOUSE

320 West Main
P.O. Box 205
Dubois, ID 83423

FREMONT COUNTY COURTHOUSE

151 W. 1ST N., Room 15
St. Anthony, ID 83445

JEFFERSON COUNTY COURTHOUSE

210 Courthouse Way, Suite 100
Rigby, ID 83442

MADISON COUNTY COURTHOUSE

P.O. Box 389
Rexburg, ID 83440-0389

DEFINITIONS OF THE ELEMENTS OF YOUR WATER RIGHT

RIGHT NUMBER: Your water right is identified by a number assigned by IDWR. The first two digits identify IDWR's administrative basin number; for example, 01.

NAME AND ADDRESS: Your name and address should appear here. IDWR will use the most recent name and address in their records for the water right.

SOURCE: The name and/or type of the source where you divert your water; for example: "groundwater," "unnamed spring," "Common Creek."

QUANTITY: The amount of water recommended in either cubic feet per second (cfs) and/or the volume of water in acre feet per year (AFY).

PRIORITY DATE: The date used to determine the priority of your right in relation to other rights using water from the same source.

POINT OF DIVERSION: The legal location where you divert water from its source; generally described as 1/4 1/4 sections down to a 40-acre tract, or smaller. Other legal descriptions that might be used are: government lots, block, subdivision, parcel numbers, townsite names, mining claim information, homestead entry surveys and other survey information.

PURPOSE OF USE: The general category of the type of use you can make of your water. Typical purposes of use include irrigation, domestic, and stock watering.

PERIOD OF USE: The period of time during the year when you can use the water for your right.

PLACE OF USE: The legal location where you use your water right; generally described as 1/4 1/4 sections down to a 40-acre tract. Other legal descriptions that might be used are: government lots, block, subdivision, parcel numbers, townsite names, mining claim information, homestead entry surveys and other survey information.

PLACE OF USE FOR IRRIGATION PROJECTS: Pursuant to Idaho Code Sections 42-219(2) and 42-1411(2)(h). IDWR has included GIS mapping for describing the place of use (digital boundary) for water rights meeting certain criteria (i.e. irrigation projects). The **PLACE OF USE** for irrigation projects is reported in digital format and uses GIS technology to particularly identify and display a geographic area encompassing the place of use with the aid of a computer. The GIS data is stored in digital format and contained on a CD-ROM and is properly marked for identification with the water right number. The CD-ROM will be retained by the SRBA Court. IDWR also retains a duplicate of the original CD-ROM. The electronic data contained on the CD-ROM is available for public use and is also accessible through the IDWR Web Site at www.idwr.idaho.gov. Upon request, IDWR will provide a copy of the CD-ROM with the electronic data to claimants.

BASIS OF CLAIM: The method that was used to establish your claim. Examples include prior decree, posted notice, beneficial use (historical) method, license, permit.

DUAL BASED CLAIMS: In some cases, the federal government has claimed one right under two theories: a state basis and a federal law basis. Both theories will be reported on one form for that single water right. In most cases, the priority dates are different and will be listed separately. The federal law basis is separately indicated by a remark under the priority date that reads:

*4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT *
THIS WATER RIGHT IS ALSO CLAIMED BASED ON FEDERAL LAW WITH AN APRIL 17, 1926,
DATE OF PRIORITY PURSUANT TO AN EXECUTIVE ORDER SIGNED THE SAME DATE AND
KNOWN AS PUBLIC WATER RESERVE 107.

IDWR does not investigate or make recommendations regarding federal law based claims.

Exhibit A

WATER RIGHTS AGREEMENT BETWEEN THE STATE OF IDAHO
AND THE UNITED STATES FOR YELLOWSTONE NATIONAL PARK

The State of Idaho and the United States agree as follows:

1. Preamble

- 1.1 The State of Idaho, pursuant to Idaho Code § 42-1406A (1990), has commenced in the Fifth Judicial District Court of the State of Idaho in and for the County of Twin Falls a general adjudication of the rights to the use of the water from that portion of the Snake River Basin located within the State of Idaho.
- 1.2 Idaho Code § 42-1409(3) (1990) provides that a claimant of a water right reserved under federal law may submit a negotiated agreement between the State of Idaho and the claimant in lieu of a notice of claim.
- 1.3 Executive Order Nos. 85-9, 87-9, and 91-8 provide that it is in the interest of the State of Idaho to quantify federal reserved water rights through negotiations.
- 1.4 The State of Idaho and the United States desire to exercise the right to submit a negotiated agreement quantifying the rights of the United States to the use of water, pursuant to both federal and Idaho law, for Yellowstone National Park.

2. Definitions

- 2.1 The following definitions apply for the purpose of this Agreement:

- .1 "Acre foot" or "AF" means the amount of water necessary to cover one acre of land to a depth of one foot and is equivalent to 43,560 cubic feet or 325,851 gallons.
- .2 "Acre feet per year" or "AFY" means the number of acre feet of water used in a calendar year commencing January 1 and ending December 31.
- .3 "Annual diversion volume" means the maximum volume of water in AFY that can be diverted or stored by the holder of a water right.
- .4 "Annual volume of consumptive use" means the maximum volume of water in AFY that can be consumptively used by the holder of a water right.
- .5 "Aquifer" means a geologic formation, group of formations, or part of a formation or other body of earth material capable of transmitting water at a rate sufficient for water supply purposes.
- .6 "Basis of right" refers to the legal authority pursuant to which the water right is established or the document by which the right is evidenced.
- .7 "Consumptive use" means the amount of water that is used by any action or process and is not returned to the water system. For an instream flow right, the term "natural consumption" shall mean consumption of water by natural processes.
- .8 "Date of Priority" means the priority date assigned to the water right.

- .9 "Director" means the Director of the Idaho Department of Water Resources or any successor.
- .10 "Diversion" means the removal of water from its natural course or location by means of a ditch, canal, flume, bypass, pipeline, conduit, well, pump, or other act of man, or the impoundment of water in a reservoir.
- .11 "Ground water" means any water contained in an aquifer.
- .12 "Idaho Department of Water Resources" or "IDWR" means, the executive agency of the State of Idaho created by Idaho Code § 42-1701 (1990), or any successor agency.
- .13 "Idaho Water Resource Board" means the Idaho State Water Resource Agency constituted in accordance with Idaho Const. art. XV, § 7, or any successor agency.
- .14 "Instream flow use" means the use of water for the maintenance of natural stream conditions.
- .15 "Lake level uses" means the use of water for the maintenance of the natural lake level.
- .16 "Park commercial use" means the use of water for the maintenance and administration of the Park, including visitor centers and other related facilities.
- .17 "Park domestic use" means the use of water for homes, organization camps, and public campgrounds maintained within the Park for visitors and Park personnel use.
- .18 "Park irrigation use" means the application of water to the land surface or root zone of the soil for the

purpose of producing a garden, lawn, or landscaping on Park land.

- .19 "Parties" means the United States and the State of Idaho.
- .20 "Period of use" means the time of the year when water may be used for a particular purpose.
- .21 "Person" means an individual, a partnership, a trust, an estate, a corporation, a municipal corporation, the State of Idaho or any political subdivision, the United States, an Indian tribe, or any other public or private entity. Idaho Code § 42-1401A(8) (1990).
- .22 "Place of use" means the location where water is used.
- .23 "Point of diversion" means any location at which water is diverted from the water system.
- .24 "Purpose of use" means the nature of use of the water right.
- .25 "Right number" means the number assigned to each decreed water right for purposes of identification. The first two numerals of the right number indicate the IDWR's hydrologic basin number.
- .26 "Snake River Basin Adjudication" or "SRBA" means Civil Case No. 39576 filed in the Fifth Judicial District Court of the State of Idaho in and for Twin Falls County on June 17, 1987 entitled "In Re the General Adjudication of Rights to the Use of Water from the Snake River Basin Water System," which was commenced pursuant to Idaho Code § 42-1406A (1990).

- .27 "Source" means the named or described source of water within the water system.
- .28 "Surface water" means any lake, spring, creek, stream, river, or other natural body of standing or moving water on the surface of the earth.
- .29 "United States" means the United States of America.
- .30 "Yellowstone National Park" or "Park" means those lands located in Idaho that were withdrawn and reserved by the Act of March 1, 1872, 16 U.S.C. § 21 et seq. 17 Stat. 32.

3. Scope of Agreement

- 3.1 The purpose of this Agreement is to quantify all existing rights of the United States under state and federal law for present and future use of water for the Park.
- 3.2 This Agreement relates to all waters on, under, adjacent to, or otherwise appurtenant to the Park in the State of Idaho.

4. Parties and Authority

- 4.1 The Governor has authority to execute this Agreement pursuant to Idaho Constitution art. IV, § 5, and Idaho Code § 67-802 (1989).
- 4.2 The Idaho Attorney General, or any duly designated official of the Office of the Idaho Attorney General, has authority to execute this Agreement pursuant to the authority to

settle litigation as provided for in Idaho Constitution, art. IV, § 1, and Idaho Code § 67-1401 (1989).

- 4.3 The Idaho Water Resource Board has authority to execute this Agreement pursuant to Idaho Code § 42-1734(3) (1990) and Executive Order Nos. 85-9, 87-9, and 98-1.
- 4.4 The United States Attorney General, or any duly designated official of the United States Department of Justice, has authority to execute this Agreement on behalf of the United States pursuant to the authority to settle litigation contained in 28 U.S.C. § 516-517 (1982).
- 4.5 The Secretary of the Interior, or any duly designated official of the United States Department of the Interior, has authority to execute this Agreement on behalf of the United States Department of Interior pursuant to 43 U.S.C. § 1457 (1982).

5. Water Rights of the United States for the Park

- 5.1 The name and address of the claimant for all the water rights negotiated and settled by this Agreement is as follows:

United States of America
c/o National Park Service
Rocky Mountain Regional Office
12795 West Alameda Parkway
Lakewood, Colorado 80225

- 5.2 Water Right For Consumptive Use Under the Act of March 1, 1872, ch. XXIV, 17 Stat. 32:
.1 Right No. 21-11958.

- .i Source: All surface and ground water sources arising on, occurring on, or underlying the Park.
- .ii Annual Diversion Volume: 1 AFY, except as provided in Article 5.4 *infra*.
- .iii Date of Priority: March 1, 1872.
- .iv Points of Diversion: Any point within the Park.
- .v Purpose of Use: Park commercial use, Park domestic use, and Park irrigation use.
- .vi Period of Use: January 1 - December 31.
- .vii Annual Volume of Consumptive Use: The maximum consumptive use is 1 AFY. The quantity consumed for fire suppression in accordance with Article 5.4 *infra* is not limited by this Agreement.
- .viii Place of Use/Legal Description of Reservation: Any place within the Park.
- .ix Basis of Right: Reservation under the Act of March 1, 1872, ch. XXIV, 17 Stat. 32.
- .x Comments: None.

5.3 Water Rights For Nonconsumptive Use Under the Act of March 1, 1872, ch. XXIV, 17 Stat. 32:

- .1 Right No. 21-11959.
 - .i Source: Thirsty Creek and all of its tributaries.

- .ii Amount of Water: Entire flow of source in excess of amount diverted by Right No. 21-11958 [Article 5.2.1].
- .iii Date of Priority: March 1, 1872.
- .iv Beginning and Ending Point of Instream Flow: Beginning where each segment of Thirsty Creek or any of its tributaries arises on the Park, or crosses the state line or crosses the Park boundary and enters the Park, and ending where each segment of Thirsty Creek or any of its tributaries flows out of the Park or across the state line.
- .v Purpose of Use: Instream flow uses.
- .vi Period of Use: January 1 - December 31.
- .vii Annual Volume of Consumptive Use: None other than natural consumption.
- .viii Place of Use/Legal Description of Reservation: Within the Park.
- .ix Basis of Right: Reservation under the Act of March 1, 1872, ch. XXIV, 17 Stat. 32.
- .x Comments: None.
- .2 Right No. 21-11960.
 - .i Source: North Fork Split Creek and all of its tributaries.
 - .ii Amount of Water: Entire flow of source in excess of amount diverted by Right No. 21-11958 [Article 5.2.1].

- .iii Date of Priority: March 1, 1872.
- .iv Beginning and Ending Point of Instream Flow:
Beginning where each segment of North Fork Split Creek or any of its tributaries arises on the Park, or crosses the state line or crosses the Park boundary and enters the Park and ending where each segment of North Fork Split Creek or any of its tributaries flows out of the Park or across the state line.
- .v Purpose of Use: Instream flow use.
- .vi Period of Use: January 1 - December 31.
- .vii Annual Volume of Consumptive Use: None other than natural consumption.
- .viii Place of Use/Legal Description of Reservation: Within the Park.
- .ix Basis of Right: Reservation under the Act of March 1, 1872, ch. XXIV, 17 Stat. 32.
- .x Comments: None.
- .3 Right No. 21-11961.
 - .i Source: South Fork Split Creek and all of its tributaries.
 - .ii Amount of Water: Entire flow of source in excess of amount diverted by Right No. 21-11958 [Article 5.2.1].
 - .iii Date of Priority: March 1, 1872.
 - .iv Beginning and Ending Point of Instream Flow:
Beginning where each segment of South Fork

Split Creek or any of its tributaries arises on the Park, or crosses the state line or crosses the Park boundary and enters the Park and ending where each segment of South Fork Split Creek or any of its tributaries flows out of the Park or across the state line.

- .v Purpose of Use: Instream flow use.
 - .vi Period of Use: January 1 - December 31.
 - .vii Annual Volume of Consumptive Use: None other than natural consumption.
 - .viii Place of Use/Legal Description of Reservation: Within the Park.
 - .ix Basis of Right: Reservation under the Act of March 1, 1872, ch. XXIV, 17 Stat. 32.
 - .x Comments: None.
- .4 Right No. 21-11962.
- .i Source: Boundary Creek and all of its tributaries.
 - .ii Amount of Water: Entire flow of source in excess of amount diverted by Right No. 21-11958 [Article 5.2.1].
 - .iii Date of Priority: March 1, 1872.
 - .iv Beginning and Ending Point of Instream Flow: Beginning where each segment of Boundary Creek or any of its tributaries arises on the Park, or crosses the state line or crosses the Park boundary and enters the Park and

ending where each segment of Boundary Creek or any of its tributaries flows out of the Park or across the state line.

- .v Purpose of Use: Instream flow use.
- .vi Period of Use: January 1 - December 31.
- .vii Annual Volume of Consumptive Use: None other than natural consumption.
- .viii Place of Use/Legal Description of Reservation: Within the Park.
- .ix Basis of Right: Reservation under the Act of March 1, 1872, ch. XXIV, 17 Stat. 32.
- .x Comments: None.

.5 Right No. 21-11963.

- .i Source: South Fork Partridge Creek and all of its tributaries.
- .ii Amount of Water: Entire flow of source in excess of amount diverted by Right No. 21-11958 [Article 5.2.1].
- .iii Date of Priority: March 1, 1872.
- .iv Beginning and Ending Point of Instream Flow: Beginning where each segment of the South Fork Partridge Creek or any of its tributaries arises on the Park, or crosses the state line or crosses the Park boundary and enters the Park and ending where each segment of the South Fork Partridge Creek or

any of its tributaries flows out of the Park
or across the state line.

- .v Purpose of Use: Instream flow use.
 - .vi Period of Use: January 1 - December 31.
 - .vii Annual Volume of Consumptive Use: None other
than natural consumption.
 - .viii Place of Use/Legal Description of
Reservation: Within the park.
 - .ix Basis of Right: Reservation under the Act of
March 1, 1872, ch. XXIV, 17 Stat. 32.
 - .x Comments: None.
- .6 Right No. 21-11964.
- .i Source: Robinson Creek and all of its
tributaries, including Little Robinson Creek.
 - .ii Amount of Water: Entire flow of source in
excess of amount diverted by Right
No. 21-11958 [Article 5.2.1].
 - .iii Date of Priority: March 1, 1872.
 - .iv Beginning and Ending Point of Instream Flow:
Beginning where each segment of the Robinson
Creek or any of its tributaries arises on the
Park, or crosses the state line or crosses
the Park boundary and enters the Park and
ending where each segment of the Robinson
Creek or any of its tributaries flows out of
the Park or across the state line.
 - .v Purpose of Use: Instream flow use.

- .vi Period of Use: January 1 - December 31.
 - .vii Annual Volume of Consumptive Use: None other than natural consumption.
 - .viii Place of Use/Legal Description of Reservation: Within the Park.
 - .ix Basis of Right: Reservation under the Act of March 1, 1872, ch. XXIV, 17 Stat. 32.
 - .x Comments: None.
- .7 Right No. 21-11965.
- .i Source: Rock Creek and all of its tributaries.
 - .ii Amount of Water: Entire flow of source in excess of amount diverted by Right No. 21-11958 [Article 5.2.1].
 - .iii Date of Priority: March 1, 1872.
 - .iv Beginning and Ending Point of Instream Flow: Beginning where each segment of the Rock Creek or any of its tributaries arises on the Park, or crosses the state line or crosses the Park boundary and enters the Park and ending where each segment of the Rock Creek or any of its tributaries flows out of the Park or across the state line.
 - .v Purpose of Use: Instream flow use.
 - .vi Period of Use: January 1 - December 31.
 - .vii Annual Volume of Consumptive Use: None other than natural consumption.

- .viii Place of Use/Legal Description of
Reservation: Within the Park.
- .ix Basis of Right: Reservation under the Act of
March 1, 1872, ch. XXIV, 17 Stat. 32.
- .x Comments: None.
- .8 Right No. 21-11966.
 - .i Source: Buffalo Lake
 - .ii Amount of Water: The amount of water
necessary to maintain the lake at its natural
level.
 - .iii Date of Priority: March 1, 1872
 - .iv Beginning and Ending Point of Instream Flow:
Not applicable.
 - .v Purpose of Use: Lake level uses.
 - .vi Period of Use: January 1 - December 31.
 - .vii Annual Volume of Consumptive Use: None other
than natural consumption.
 - .viii Place of Use/Legal Description of
Reservation: Within the Park.
 - .ix Basis of Right: Reservation under the Act of
March 1, 1872, ch. XXIV, 17 Stat. 35.
 - .x Comments: None.
- .9 Right No. 21-11967.
 - .i Source: Robinson Lake
 - .ii Amount of Water: The amount of water
necessary to maintain the lake at its natural
level.

- .iii Date of Priority: March 1, 1872
 - .iv Beginning and Ending Point of Instream Flow:
Not applicable.
 - .v Purpose of Use: Lake level uses.
 - .vi Period of Use: January 1 - December 31.
 - .vii Annual Volume of Consumptive Use: None other
than natural consumption.
 - .viii Place of Use/Legal Description of
Reservation: Within the Park.
 - .ix Basis of Right: Reservation under the Act of
March 1, 1872, ch. XXIV, 17 Stat. 35.
 - .x Comments: None.
- .10 Right No. 21-11968.
- .i Source: Unnamed lakes, identified by the
approximate location of their center points as
follows:

Lake No.	Latitude	Longitude
1	44°08'31"N	111°03'27"W
2	44°09'28"N	111°05'23"W
3	44°09'40"N	111°05'00"W
4	44°09'41"N	111°05'40"W
5	44°09'52"N	111°05'21"W
6	44°09'52"N	111°04'48"W
7	44°09'51"N	111°04'31"W
8	44°09'59"N	111°04'38"W
9	44°10'04"N	111°04'54"W
10	44°10'12"N	111°05'19"W
11	44°10'18"N	111°04'43"W
12	44°10'25"N	111°04'12"W
13	44°10'32"N	111°03'25"W
14	44°10'40"N	111°03'56"W
15	44°10'48"N	111°04'02"W
16	44°10'49"N	111°03'38"W
17	44°10'51"N	111°03'40"W
18	44°13'51"N	111°03'29"W

19	44°20'15"N	111°05'28"W
20	44°22'05"N	111°05'13"W
21	44°22'30"N	111°04'04"W
22	44°22'31"N	111°04'03"W
23	44°22'33"N	111°03'59"W
24	44°22'37"N	111°04'04"W

- .ii Amount of Water: The amount of water necessary to maintain the lakes at their natural level.
- .iii Date of Priority: March 1, 1872.
- .iv Beginning and Ending Point of Instream Flow: Not applicable.
- .v Purpose: Lake level uses.
- .vi Period of Use: January 1 - December 31.
- .vii Annual Volume of Consumptive Use: None other than natural consumption.
- .viii Place of Use/Legal Description of Reservation: Within the Park.
- .ix Basis of Right: Reservation under the Act of March 1, 1872, ch. XXIV, 17 Stat. 35.
- .x Comments: None.

5.4 The United States may also divert water for fire suppression in accordance with the following paragraph to be included in the final decree in this matter:

"The use of water for fire suppression benefits the public. Water diverted for fire suppression may be taken randomly, without a definition of the specific elements of a recordable water right, and if so diverted for fire suppression, existing water rights shall not be diminished."

- 5.5 The rights described in this Agreement are Federal Reserved Water Rights with all the characteristics appertaining thereto. Non-use of all or any part of the Federal Reserved Water Rights shall not constitute a relinquishment, forfeiture or abandonment of the rights.
- 5.6 The United States shall not change any element of any Federal Reserved Water Right described in Article 5.
- 5.7 The United States shall manage the Park for the preservation of the natural flow regime of the water system and shall retain the water system in its natural condition; however, this section does not limit the diversion of water under the rights described at Articles 5.2 and 5.4 of this Agreement.
- 5.8 The United States claims such ground water as is necessary to maintain the natural thermal features such as geysers, mudpots, hot springs, and similar features of the Park. Because the parties are not able to quantify or otherwise describe the amount, sources or temperature of ground water that may be required to protect these natural thermal features, this Agreement does not address this claim. Such claim is left for resolution when the need arises. This Agreement quantifies all other ground water right claims of the United States.

6. Finality of Settlement Agreement

- 6.1 The parties agree that this Agreement will be submitted to the Director in lieu of a notice of claim in the SRBA, that

the Director will submit this Agreement and an abstract of this Agreement to the Fifth Judicial District Court of the State of Idaho in and for the County of Twin Falls as part of a Director's Report, and that state law allows other persons not signatory to this Agreement to file objections to the approval of this Agreement by the District Court.

6.2 The parties agree to move the Court for adoption of a decree awarding the United States the water rights set forth in this Agreement, and to jointly support and defend this Agreement against any and all objections or other challenges that may arise in any phase of the SRBA, including any appeals, and in securing any necessary ratification of the Agreement. If the Court, after notice and hearing, fails to approve the terms of this Agreement, then this Agreement shall be null and void.

6.4 The United States' water rights for the Park confirmed in Agreement 5 shall be final and conclusive as to all parties to the SRBA upon the completion of all judicial proceedings, including any appeals, relative to this Agreement.

7. Disclaimers and Reservation of Rights

7.1 Except for the United States' water rights recognized in Article 5, the United States hereby relinquishes forever any and all existing claims to water under federal and state law from any source for present and future use in the Park.

- 7.2 This Agreement has been reached through good faith negotiations for the purpose of resolving legal disputes, including pending litigation, and all parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest or be used in any legal proceeding .
- 7.3 Entry of judgment as set forth above has been consented to by the parties without trial or adjudication of fact or law herein and without the judgment constituting evidence or an admission by any party, with respect to any such issue, which is, will be, or could be litigated in any proceeding other than the SRBA. See McShan v. Omega Louis Brandt et Frere, S.A., 536 F.2d 516, 519 (2d Cir. 1976). Once this Agreement becomes effective as provided by Article 13.1, the water rights described in Article 5 of this Agreement shall be binding upon all parties to the SRBA, whether signatory to the Agreement or not.
- 7.4 Nothing in this Agreement shall be so construed or interpreted:
- .1 To establish any standard to be used for the quantification of Federal Reserved Water Rights in any judicial or administrative proceeding;
 - .2 To determine the relative rights inter sese of persons using water under the authority of state law or to authorize the taking of a water right which is vested under state or federal law;

- .3 To limit in any way the rights of the parties or any person to litigate any issue or question not resolved by this Agreement;
 - .4 To restrict the acquisition or exercise of an appropriative right to the use of water under state law, provided the water rights confirmed in this Agreement have been fully used at the time the application is made or are not physically available for use through reasonable diversion facilities.
 - .5 To restrict the power of the United States to reserve water in the future, in accordance with applicable law.
- 7.5 Although this Agreement recognizes a water right to the entire flow of several different sources, because of the unique nature of Yellowstone National Park, the Agreement shall not constitute an admission or precedent for any other federal water right claim.
- 7.6 The parties are unable to agree upon who may administer the water rights set forth in this Agreement. Accordingly, this Agreement does not address or resolve this issue. Each party reserves the right to litigate the issue of administration, if and when the issue arises.

8. Severability

- 8.1 This Agreement is not severable.

9. Successors

- 9.1 This Agreement shall bind and inure to the benefit of the respective successors of the parties.

10. Entire Agreement

- 10.1 This Agreement sets forth all the covenants, promises, provisions, agreements, conditions, and understandings between the parties and there are no covenants, provisions, promises, agreements, conditions, or understandings, either oral or written between them other than are herein set forth.

11. Effect of Headings

- 11.1 Headings appearing in this Agreement are inserted for convenience and reference and shall not be construed as interpretations of the text.

12. Multiple Originals

- 12.1 This Agreement is executed in quintuplicate. Each of the five (5) Agreements with an original signature of each party shall be an original.

13. Effective Date

- 13.1 This Agreement shall be effective when all of the following events have occurred:
- .1 This Agreement is executed; and

.2 The water rights described in Article 5 of this Agreement have been confirmed in a decree in the SRBA and such decree has become final and nonappealable.

The parties have executed this Agreement on the date following their respective signatures.



CECIL D. ANDRUS
Governor, State of Idaho

5-13-92
Date



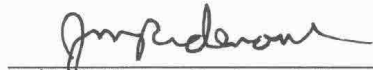
LARRY ECHOLS
Attorney General, State of Idaho

5-14-92
Date



F. DAVE RYDALCH
Chair, Idaho Water Resource Board

1/16/1992
Date



United States Dept. of the Interior

1/24/92
Date



United States Department of Justice

1/17/92
Date

Exhibit B

09/15/2011

IDAHO DEPARTMENT OF WATER RESOURCES
ABSTRACTED CLAIMS TO WATER RIGHTS BASED ON FEDERAL LAW

RIGHT NUMBER: 21-11958

NAME AND ADDRESS: UNITED STATES OF AMERICA
C/O NATIONAL PARK SERVICE
ROCKY MOUNTAIN REGIONAL OFFICE
12795 WEST ALAMEDA PARKWAY
LAKEWOOD CO 80225

SOURCE:

ALL SURFACE AND GROUND WATER SOURCES ARISING ON, OCCURRING
ON, OR UNDERLYING THE PARK.

QUANTITY: 1.00 AFY

1 AFY, EXCEPT AS PROVIDED IN ARTICLE 5.4 INFRA.

PRIORITY DATE: 03/01/1872

POINT OF
DIVERSION:

ANY POINT WITHIN THE PARK.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	1/01 12/31	
COMMERCIAL	1/01 12/31	
IRRIGATION	1/01 12/31	

PLACE OF USE:

ANY PLACE WITHIN THE PARK.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Reserved

BASIS OF RIGHT: RESERVATION UNDER THE ACT OF MARCH 1, 1872, CH.
XXIV, 17 STAT. 32.

RIGHT NUMBER: 21-11959

SOURCE: THIRSTY CREEK

TRIBUTARY:

QUANTITY:

PRIORITY DATE: 03/01/1872

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

MINIMUM STREAM FLOW

1/01 12/31

PLACE OF USE:

WITHIN THE PARK.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Reserved

BASIS OF RIGHT: RESERVATION UNDER THE ACT OF MARCH 1, 1872, CH.
XXIV, 17 STAT. 32.

09/15/2011

IDAHO DEPARTMENT OF WATER RESOURCES
ABSTRACTED CLAIMS TO WATER RIGHTS BASED ON FEDERAL LAW

RIGHT NUMBER: 21-11960

NAME AND ADDRESS: UNITED STATES OF AMERICA
C/O NATIONAL PARK SERVICE
ROCKY MOUNTAIN REGIONAL OFFICE
12795 WEST ALAMEDA PARKWAY
LAKEWOOD CO 80225SOURCE: NORTH FORK SPLIT CREEK TRIBUTARY:
NORTH FORK SPLIT CREEK AND ALL OF ITS TRIBUTARIES.QUANTITY:
ENTIRE FLOW OF SOURCE IN EXCESS OF AMOUNT DIVERTED BY RIGHT
NO. 21-11958 [ARTICLE 5.2.1].

PRIORITY DATE: 03/01/1872

POINT OF
DIVERSION:BEGINNING WHERE EACH SEGMENT OF NORTH FORK SPLIT CREEK OR
ANY OF ITS TRIBUTARIES ARISES ON THE PARK, OR CROSSES THE STATE
LINE OR CROSSES THE PARK BOUNDARY AND ENTERS THE PARK AND
ENDING WHERE EACH SEGMENT OF NORTH FORK SPLIT CREEK OR ANY
OF ITS TRIBUTARIES FLOWS OUT OF THE PARK OR ACROSS THE STATE
LINE.PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MINIMUM STREAM FLOW	1/01 12/31	

PLACE OF USE:

WITHIN THE PARK.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Reserved

BASIS OF RIGHT: RESERVATION UNDER THE ACT OF MARCH 1, 1872, CH.
XXIV, 17 STAT. 32.

09/15/2011

IDAHO DEPARTMENT OF WATER RESOURCES
ABSTRACTED CLAIMS TO WATER RIGHTS BASED ON FEDERAL LAW

RIGHT NUMBER: 21-11961

NAME AND ADDRESS: UNITED STATES OF AMERICA
C/O NATIONAL PARK SERVICE
ROCKY MOUNTAIN REGIONAL OFFICE
12795 WEST ALAMEDA PARKWAY
LAKEWOOD CO 80225SOURCE: SOUTH FORK SPLIT CREEK TRIBUTARY:
SOUTH FORK SPLIT CREEK AND ALL OF ITS TRIBUTARIES.

QUANTITY:

ENTIRE FLOW OF SOURCE IN EXCESS OF AMOUNT DIVERTED BY RIGHT
NO. 21-11958 [ARTICLE 5.2.1].

PRIORITY DATE: 03/01/1872

POINT OF
DIVERSION:BEGINNING WHERE EACH SEGMENT OF SOUTH FORK SPLIT CREEK OR
ANY OF ITS TRIBUTARIES ARISES ON THE PARK, OR CROSSES THE STATE
LINE OR CROSSES THE PARK BOUNDARY AND ENTERS THE PARK AND
ENDING WHERE EACH SEGMENT OF SOUTH FORK SPLIT CREEK OR ANY
OF ITS TRIBUTARIES FLOWS OUT OF THE PARK OR ACROSS THE STATE
LINE.PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MINIMUM STREAM FLOW	1/01 12/31	

PLACE OF USE:

WITHIN THE PARK.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Reserved

BASIS OF RIGHT: RESERVATION UNDER THE ACT OF MARCH 1, 1872, CH.
XXIV, 17 STAT. 32.

09/15/2011

IDAHO DEPARTMENT OF WATER RESOURCES
ABSTRACTED CLAIMS TO WATER RIGHTS BASED ON FEDERAL LAW

RIGHT NUMBER: 21-11962

NAME AND ADDRESS: UNITED STATES OF AMERICA
C/O NATIONAL PARK SERVICE
ROCKY MOUNTAIN REGIONAL OFFICE
12795 WEST ALAMEDA PARKWAY
LAKEWOOD CO 80225SOURCE: BOUNDARY CREEK TRIBUTARY:
BOUNDARY CREEK AND ALL OF ITS TRIBUTARIES.

QUANTITY:

ENTIRE FLOW OF SOURCE IN EXCESS OF AMOUNT DIVERTED BY RIGHT
NO. 21-11958 [ARTICLE 5.2.1].

PRIORITY DATE: 03/01/1872

POINT OF
DIVERSION:BEGINNING WHERE EACH SEGMENT OF BOUNDARY CREEK OR ANY OF ITS
TRIBUTARIES ARISES ON THE PARK, OR CROSSES THE STATE LINE OR
CROSSES THE PARK BOUNDARY AND ENTERS THE PARK AND ENDING
WHERE EACH SEGMENT OF BOUNDARY CREEK OR ANY OF ITS
TRIBUTARIES FLOWS OUT OF THE PARK OR ACROSS THE STATE LINE.PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MINIMUM STREAM FLOW	1/01 12/31	

PLACE OF USE:

WITHIN THE PARK.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Reserved

BASIS OF RIGHT: RESERVATION UNDER THE ACT OF MARCH 1, 1872, CH.
XXIV, 17 STAT. 32.

09/15/2011

IDAHO DEPARTMENT OF WATER RESOURCES
ABSTRACTED CLAIMS TO WATER RIGHTS BASED ON FEDERAL LAW

RIGHT NUMBER: 21-11963

NAME AND ADDRESS: UNITED STATES OF AMERICA
C/O NATIONAL PARK SERVICE
ROCKY MOUNTAIN REGIONAL OFFICE
12795 WEST ALAMEDA PARKWAY
LAKEWOOD CO 80225

SOURCE: SOUTH FORK PARTRIDGE CREEK TRIBUTARY:
SOUTH FORK PARTRIDGE CREEK AND ALL OF ITS TRIBUTARIES.

QUANTITY:
ENTIRE FLOW OF SOURCE IN EXCESS OF AMOUNT DIVERTED BY RIGHT
NO. 21-11958 [ARTICLE 5.2.1].

PRIORITY DATE: 03/01/1872

POINT OF
DIVERSION:

BEGINNING WHERE EACH SEGMENT OF THE SOUTH FORK PARTRIDGE
CREEK OR ANY OF ITS TRIBUTARIES ARISES ON THE PARK, OR CROSSES
THE STATE LINE OR CROSSES THE PARK BOUNDARY AND ENTERS THE
PARK AND ENDING WHERE EACH SEGMENT OF THE SOUTH FORK
PARTRIDGE CREEK OR ANY OF ITS TRIBUTARIES FLOWS OUT OF THE
PARK OR ACROSS THE STATE LINE.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MINIMUM STREAM FLOW	1/01 12/31	

PLACE OF USE:

WITHIN THE PARK.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Reserved

BASIS OF RIGHT: RESERVATION UNDER THE ACT OF MARCH 1, 1872, CH.
XXIV, 17 STAT. 32.

09/15/2011

IDAHO DEPARTMENT OF WATER RESOURCES
ABSTRACTED CLAIMS TO WATER RIGHTS BASED ON FEDERAL LAW

RIGHT NUMBER: 21-11964

NAME AND ADDRESS: UNITED STATES OF AMERICA
C/O NATIONAL PARK SERVICE
ROCKY MOUNTAIN REGIONAL OFFICE
12795 WEST ALAMEDA PARKWAY
LAKEWOOD CO 80225

SOURCE: ROBINSON CREEK

TRIBUTARY:

ROBINSON CREEK AND ALL OF ITS TRIBUTARIES, INCLUDING LITTLE
ROBINSON CREEK.

QUANTITY:

ENTIRE FLOW OF SOURCE IN EXCESS OF AMOUNT DIVERTED BY RIGHT
NO. 21-11958 [ARTICLE 5.2.1].

PRIORITY DATE: 03/01/1872

POINT OF
DIVERSION:

BEGINNING WHERE EACH SEGMENT OF THE ROBINSON CREEK OR ANY OF
ITS TRIBUTARIES ARISES ON THE PARK, OR CROSSES THE STATE LINE OR
CROSSES THE PARK BOUNDARY AND ENTERS THE PARK AND ENDING
WHERE EACH SEGMENT OF THE ROBINSON CREEK OR ANY OF ITS
TRIBUTARIES FLOWS OUT OF THE PARK OR ACROSS THE STATE LINE.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MINIMUM STREAM FLOW	1/01 12/31	.

PLACE OF USE:

WITHIN THE PARK.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Reserved

BASIS OF RIGHT: RESERVATION UNDER THE ACT OF MARCH 1, 1872, CH.
XXIV, 17 STAT. 32.

09/15/2011

IDAHO DEPARTMENT OF WATER RESOURCES
 ABSTRACTED CLAIMS TO WATER RIGHTS BASED ON FEDERAL LAW

RIGHT NUMBER: 21-11965

NAME AND ADDRESS: UNITED STATES OF AMERICA
 C/O NATIONAL PARK SERVICE
 ROCKY MOUNTAIN REGIONAL OFFICE
 12795 WEST ALAMEDA PARKWAY
 LAKEWOOD CO 80225

SOURCE: ROCK CREEK
 TRIBUTARY:
 ROCK CREEK AND ALL OF ITS TRIBUTARIES.

QUANTITY:
 ENTIRE FLOW OF SOURCE IN EXCESS OF AMOUNT DIVERTED BY RIGHT
 NO. 21-11958 [ARTICLE 5.2.1].

PRIORITY DATE: 03/01/1872

POINT OF
 DIVERSION:

BEGINNING WHERE EACH SEGMENT OF THE ROCK CREEK OR ANY OF ITS
 TRIBUTARIES ARISES ON THE PARK, OR CROSSES THE STATE LINE OR
 CROSSES THE PARK BOUNDARY AND ENTERS THE PARK AND ENDING
 WHERE EACH SEGMENT OF THE ROCK CREEK OR ANY OF ITS
 TRIBUTARIES FLOWS OUT OF THE PARK OR ACROSS THE STATE LINE.

PURPOSE AND
 PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MINIMUM STREAM FLOW	1/01 12/31	

PLACE OF USE:

WITHIN THE PARK.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Reserved

BASIS OF RIGHT: RESERVATION UNDER THE ACT OF MARCH 1, 1872, CH.
 XXIV, 17 STAT. 32.

09/15/2011

IDAHO DEPARTMENT OF WATER RESOURCES
ABSTRACTED CLAIMS TO WATER RIGHTS BASED ON FEDERAL LAW

RIGHT NUMBER: 21-11966

NAME AND ADDRESS: UNITED STATES OF AMERICA
C/O NATIONAL PARK SERVICE
ROCKY MOUNTAIN REGIONAL OFFICE
12795 WEST ALAMEDA PARKWAY
LAKEWOOD CO 80225

SOURCE: BUFFALO LAKE

TRIBUTARY:

QUANTITY:

THE AMOUNT OF WATER NECESSARY TO MAINTAIN THE LAKE AT ITS
NATURAL LEVEL.

PRIORITY DATE: 03/01/1872

POINT OF
DIVERSION:PURPOSE AND
PERIOD OF USE:PURPOSE OF USEPERIOD OF USEQUANTITY

LAKE LEVEL MAINTENANCE

1/01 12/31

PLACE OF USE:

WITHIN THE PARK.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Reserved

BASIS OF RIGHT: RESERVATION UNDER THE ACT OF MARCH 1, 1872, CH.
XXIV, 17 STAT. 35.

09/15/2011

IDAHO DEPARTMENT OF WATER RESOURCES
ABSTRACTED CLAIMS TO WATER RIGHTS BASED ON FEDERAL LAW

RIGHT NUMBER: 21-11967

NAME AND ADDRESS: UNITED STATES OF AMERICA
C/O NATIONAL PARK SERVICE
ROCKY MOUNTAIN REGIONAL OFFICE
12795 WEST ALAMEDA PARKWAY
LAKEWOOD CO 80225

SOURCE: ROBINSON LAKE

TRIBUTARY:

QUANTITY:

THE AMOUNT OF WATER NECESSARY TO MAINTAIN THE LAKE AT ITS
NATURAL LEVEL.

PRIORITY DATE: 03/01/1872

POINT OF
DIVERSION:PURPOSE AND
PERIOD OF USE:PURPOSE OF USEPERIOD OF USEQUANTITY

LAKE LEVEL MAINTENANCE

1/01 12/31

PLACE OF USE:

WITHIN THE PARK.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Reserved

BASIS OF RIGHT: RESERVATION UNDER THE ACT OF MARCH 1, 1872, CH.
XXIV, 17 STAT. 35.

09/15/2011

IDAHO DEPARTMENT OF WATER RESOURCES
ABSTRACTED CLAIMS TO WATER RIGHTS BASED ON FEDERAL LAW

RIGHT NUMBER: 21-11968

NAME AND ADDRESS: UNITED STATES OF AMERICA
C/O NATIONAL PARK SERVICE
ROCKY MOUNTAIN REGIONAL OFFICE
12795 WEST ALAMEDA PARKWAY
LAKEWOOD CO 80225

SOURCE: UNNAMED LAKES

TRIBUTARY:

UNNAMED LAKES, IDENTIFIED BY THE APPROXIMATE LOCATION OF THEIR
CENTER POINTS AS FOLLOWS:

LAKE NO.	LATITUDE	LONGITUDE
1	44°08'31"N	111°03'27"W
2	44°09'28"N	111°05'23"W
3	44°09'40"N	111°05'00"W
4	44°09'41"N	111°05'40"W
5	44°09'52"N	111°05'21"W
6	44°09'52"N	111°04'48"W
7	44°09'51"N	111°04'31"W
8	44°09'59"N	111°04'38"W
9	44°10'04"N	111°04'54"W
10	44°10'12"N	111°05'19"W
11	44°10'18"N	111°04'43"W
12	44°10'25"N	111°04'12"W
13	44°10'32"N	111°03'25"W
14	44°10'40"N	111°03'56"W
15	44°10'48"N	111°04'02"W
16	44°10'49"N	111°03'38"W
17	44°10'51"N	111°03'40"W
18	44°13'51"N	111°03'29"W
19	44°20'15"N	111°05'28"W
20	44°22'05"N	111°05'13"W
21	44°22'30"N	111°04'04"W
22	44°22'31"N	111°04'03"W
23	44°22'33"N	111°03'59"W
24	44°22'37"N	111°04'04"W

QUANTITY:

THE AMOUNT OF WATER NECESSARY TO MAINTAIN THE LAKES AT THEIR
NATURAL LEVEL.

PRIORITY DATE: 03/01/1872

POINT OF
DIVERSION:

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
LAKE LEVEL MAINTENANCE	1/01 12/31	

PLACE OF USE:

12

WITHIN THE PARK.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Reserved

BASIS OF RIGHT: RESERVATION UNDER THE ACT OF MARCH 1, 1872, CH.
XXIV, 17 STAT. 35.

DEPARTMENT OF
NATURAL RESOURCES AND CONSERVATION
BOZEMAN WATER RESOURCES REGIONAL OFFICE



MARC RACICOT, GOVERNOR

151 EVERGREEN DRIVE, SUITE C

STATE OF MONTANA

(406) 586-3136

BOZEMAN, MONTANA 59715-2457

February 19, 1997

Charles Pettee
U.S. Dept. of Interior
National Park Service
Water Rights Branch
1201 Oak Ridge Dr., Ste 250
Fort Collins, CO 80525

Dear Mr. Pettee,

With the reorganization of the DNRC Water Rights Bureau and retirement of several people in the Bureau, I wanted to update you on contact people.

1) Scott Compton is the department's designated contact person to replace Ron Guse in Article IV.B. (Key Officials) within the Cooperative Agreement (No. 1443CA157094001) between the NPS and State of Montana for the Yellowstone Controlled Groundwater Area.

2) Scott Compton will be the main DNRC contact for general correspondence and reporting regarding the compact. Correspondence regarding a specific park unit should be sent to the respective Regional Office with a copy to Scott Compton. The DNRC will keep a central record in Helena of any actions involving NPS reserved rights.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Scott Compton".

Scott Compton
Regional Manager
Bozeman Water Resources Office

cc: Kalispell Regional Office
Helena Regional Office
Billings Regional Office
Terri McLaughlin
Nancy Andersen
Jack Stults

DNRC CONTACTS

Glacier National Park:

Kalispell Regional Office
Attn: Ann Glubczynski
P.O. Box 860
Kalispell, MT 59903-0860

Yellowstone National Park:

Bozeman Regional Office
Attn: Scott Compton
151 Evergreen Drive, Suite C
Bozeman, MT 59715

Big Hole National Battlefield:

Helena Regional Office
Attn: T. J. Reynolds
P.O. Box 201601
Helena, MT 59620-1601

Big Horn Canyon National Recreation Area &
Little Bighorn Battlefield National Monument:

Billings Regional Office
Attn: Keith Kerbel
1537 Avenue D, Suite 121
Billings, MT 59102



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

BOISE 83720-1000

LARRY ECHOHAWK
ATTORNEY GENERAL

TELEPHONE
(208) 334-2400

TELECOPIER
(208) 334-2530

NATURAL RESOURCES
TELECOPIER
(208) 334-2690

June 11, 1992

Peter Monson
U.S. Department of Justice
Enviro. & Natural Res. Division
Indian Resources Section, Rm. 6702
P.O. Box 44378
Washington, D.C. 20026-4378

Re: Executed Settlement Agreements for Craters of the Moon
National Monument and Yellowstone National Park.

Dear Mr. Monson:

Enclosed are two executed originals for each of the following two Settlement Agreements: (1) Craters of the Moon National Monument and (2) Yellowstone National Park. The State of Idaho is retaining two originals of each of these settlement agreements and one original for submission with the Director's Report.

We are pleased that the United States and the State of Idaho reached agreement on the scope of the water rights for these federal reservations in Idaho.

Sincerely,

A handwritten signature in cursive script, reading "Clive J. Strong".

Clive J. Strong
Deputy Attorney General
Chief, Natural Resources Division

CJS/cjc

cc: Owen Williams
David B. Shaw

L2160NBA

WATER RIGHTS AGREEMENT BETWEEN THE STATE OF IDAHO
AND THE UNITED STATES FOR YELLOWSTONE NATIONAL PARK

The State of Idaho and the United States agree as follows:

1. Preamble

- 1.1 The State of Idaho, pursuant to Idaho Code § 42-1406A (1990), has commenced in the Fifth Judicial District Court of the State of Idaho in and for the County of Twin Falls a general adjudication of the rights to the use of the water from that portion of the Snake River Basin located within the State of Idaho.
- 1.2 Idaho Code § 42-1409(3) (1990) provides that a claimant of a water right reserved under federal law may submit a negotiated agreement between the State of Idaho and the claimant in lieu of a notice of claim.
- 1.3 Executive Order Nos. 85-9, 87-9, and 91-8 provide that it is in the interest of the State of Idaho to quantify federal reserved water rights through negotiations.
- 1.4 The State of Idaho and the United States desire to exercise the right to submit a negotiated agreement quantifying the rights of the United States to the use of water, pursuant to both federal and Idaho law, for Yellowstone National Park.

2. Definitions

- 2.1 The following definitions apply for the purpose of this Agreement:

- .1 "Acre foot" or "AF" means the amount of water necessary to cover one acre of land to a depth of one foot and is equivalent to 43,560 cubic feet or 325,851 gallons.
- .2 "Acre feet per year" or "AFY" means the number of acre feet of water used in a calendar year commencing January 1 and ending December 31.
- .3 "Annual diversion volume" means the maximum volume of water in AFY that can be diverted or stored by the holder of a water right.
- .4 "Annual volume of consumptive use" means the maximum volume of water in AFY that can be consumptively used by the holder of a water right.
- .5 "Aquifer" means a geologic formation, group of formations, or part of a formation or other body of earth material capable of transmitting water at a rate sufficient for water supply purposes.
- .6 "Basis of right" refers to the legal authority pursuant to which the water right is established or the document by which the right is evidenced.
- .7 "Consumptive use" means the amount of water that is used by any action or process and is not returned to the water system. For an instream flow right, the term "natural consumption" shall mean consumption of water by natural processes.
- .8 "Date of Priority" means the priority date assigned to the water right.

- .9 "Director" means the Director of the Idaho Department of Water Resources or any successor.
- .10 "Diversion" means the removal of water from its natural course or location by means of a ditch, canal, flume, bypass, pipeline, conduit, well, pump, or other act of man, or the impoundment of water in a reservoir.
- .11 "Ground water" means any water contained in an aquifer.
- .12 "Idaho Department of Water Resources" or "IDWR" means, the executive agency of the State of Idaho created by Idaho Code § 42-1701 (1990), or any successor agency.
- .13 "Idaho Water Resource Board" means the Idaho State Water Resource Agency constituted in accordance with Idaho Const. art. XV, § 7, or any successor agency.
- .14 "Instream flow use" means the use of water for the maintenance of natural stream conditions.
- .15 "Lake level uses" means the use of water for the maintenance of the natural lake level.
- .16 "Park commercial use" means the use of water for the maintenance and administration of the Park, including visitor centers and other related facilities.
- .17 "Park domestic use" means the use of water for homes, organization camps, and public campgrounds maintained within the Park for visitors and Park personnel use.
- .18 "Park irrigation use" means the application of water to the land surface or root zone of the soil for the

purpose of producing a garden, lawn, or landscaping on Park land.

- .19 "Parties" means the United States and the State of Idaho.
- .20 "Period of use" means the time of the year when water may be used for a particular purpose.
- .21 "Person" means an individual, a partnership, a trust, an estate, a corporation, a municipal corporation, the State of Idaho or any political subdivision, the United States, an Indian tribe, or any other public or private entity. Idaho Code § 42-1401A(8) (1990).
- .22 "Place of use" means the location where water is used.
- .23 "Point of diversion" means any location at which water is diverted from the water system.
- .24 "Purpose of use" means the nature of use of the water right.
- .25 "Right number" means the number assigned to each decreed water right for purposes of identification. The first two numerals of the right number indicate the IDWR's hydrologic basin number.
- .26 "Snake River Basin Adjudication" or "SRBA" means Civil Case No. 39576 filed in the Fifth Judicial District Court of the State of Idaho in and for Twin Falls County on June 17, 1987 entitled "In Re the General Adjudication of Rights to the Use of Water from the Snake River Basin Water System," which was commenced pursuant to Idaho Code § 42-1406A (1990).

- .27 "Source" means the named or described source of water within the water system.
- .28 "Surface water" means any lake, spring, creek, stream, river, or other natural body of standing or moving water on the surface of the earth.
- .29 "United States" means the United States of America.
- .30 "Yellowstone National Park" or "Park" means those lands located in Idaho that were withdrawn and reserved by the Act of March 1, 1872, 16 U.S.C. § 21 et seq. 17 Stat. 32.

3. Scope of Agreement

- 3.1 The purpose of this Agreement is to quantify all existing rights of the United States under state and federal law for present and future use of water for the Park..
- 3.2 This Agreement relates to all waters on, under, adjacent to, or otherwise appurtenant to the Park in the State of Idaho.

4. Parties and Authority

- 4.1 The Governor has authority to execute this Agreement pursuant to Idaho Constitution art. IV, § 5, and Idaho Code § 67-802 (1989).
- 4.2 The Idaho Attorney General, or any duly designated official of the Office of the Idaho Attorney General, has authority to execute this Agreement pursuant to the authority to

settle litigation as provided for in Idaho Constitution, art. IV, § 1, and Idaho Code § 67-1401 (1989).

- 4.3 The Idaho Water Resource Board has authority to execute this Agreement pursuant to Idaho Code § 42-1734(3) (1990) and Executive Order Nos. 85-9, 87-9, and 98-1.
- 4.4 The United States Attorney General, or any duly designated official of the United States Department of Justice, has authority to execute this Agreement on behalf of the United States pursuant to the authority to settle litigation contained in 28 U.S.C. § 516-517 (1982).
- 4.5 The Secretary of the Interior, or any duly designated official of the United States Department of the Interior, has authority to execute this Agreement on behalf of the United States Department of Interior pursuant to 43 U.S.C. § 1457 (1982).

5. Water Rights of the United States for the Park

- 5.1 The name and address of the claimant for all the water rights negotiated and settled by this Agreement is as follows:

United States of America
c/o National Park Service
Rocky Mountain Regional Office
12795 West Alameda Parkway
Lakewood, Colorado 80225

- 5.2 Water Right For Consumptive Use Under the Act of March 1, 1872, ch. XXIV, 17 Stat. 32:
 - .1 Right No. 21-11958.

- .i Source: All surface and ground water sources arising on, occurring on, or underlying the Park.
- .ii Annual Diversion Volume: 1 AFY, except as provided in Article 5.4 *infra*.
- .iii Date of Priority: March 1, 1872.
- .iv Points of Diversion: Any point within the Park.
- .v Purpose of Use: Park commercial use, Park domestic use, and Park irrigation use.
- .vi Period of Use: January 1 - December 31.
- .vii Annual Volume of Consumptive Use: The maximum consumptive use is 1 AFY. The quantity consumed for fire suppression in accordance with Article 5.4 *infra* is not limited by this Agreement.
- .viii Place of Use/Legal Description of Reservation: Any place within the Park.
- .ix Basis of Right: Reservation under the Act of March 1, 1872, ch. XXIV, 17 Stat. 32.
- .x Comments: None.

5.3 Water Rights For Nonconsumptive Use Under the Act of March 1, 1872, ch. XXIV, 17 Stat. 32:

- .1 Right No. 21-11959.
 - .i Source: Thirsty Creek and all of its tributaries.

- .ii Amount of Water: Entire flow of source in excess of amount diverted by Right No. 21-11958 [Article 5.2.1].
- .iii Date of Priority: March 1, 1872.
- .iv Beginning and Ending Point of Instream Flow: Beginning where each segment of Thirsty Creek or any of its tributaries arises on the Park, or crosses the state line or crosses the Park boundary and enters the Park, and ending where each segment of Thirsty Creek or any of its tributaries flows out of the Park or across the state line.
- .v Purpose of Use: Instream flow uses.
- .vi Period of Use: January 1 - December 31.
- .vii Annual Volume of Consumptive Use: None other than natural consumption.
- .viii Place of Use/Legal Description of Reservation: Within the Park.
- .ix Basis of Right: Reservation under the Act of March 1, 1872, ch. XXIV, 17 Stat. 32.
- .x Comments: None.
- .2 Right No. 21-11960.
 - .i Source: North Fork Split Creek and all of its tributaries.
 - .ii Amount of Water: Entire flow of source in excess of amount diverted by Right No. 21-11958 [Article 5.2.1].

- .iii Date of Priority: March 1, 1872.
- .iv Beginning and Ending Point of Instream Flow:
Beginning where each segment of North Fork Split Creek or any of its tributaries arises on the Park, or crosses the state line or crosses the Park boundary and enters the Park and ending where each segment of North Fork Split Creek or any of its tributaries flows out of the Park or across the state line.
- .v Purpose of Use: Instream flow use.
- .vi Period of Use: January 1 - December 31.
- .vii Annual Volume of Consumptive Use: None other than natural consumption.
- .viii Place of Use/Legal Description of Reservation: Within the Park.
- .ix Basis of Right: Reservation under the Act of March 1, 1872, ch. XXIV, 17 Stat. 32.
- .x Comments: None.
- .3 Right No. 21-11961.
 - .i Source: South Fork Split Creek and all of its tributaries.
 - .ii Amount of Water: Entire flow of source in excess of amount diverted by Right No. 21-11958 [Article 5.2.1].
 - .iii Date of Priority: March 1, 1872.
 - .iv Beginning and Ending Point of Instream Flow:
Beginning where each segment of South Fork

Split Creek or any of its tributaries arises on the Park, or crosses the state line or crosses the Park boundary and enters the Park and ending where each segment of South Fork Split Creek or any of its tributaries flows out of the Park or across the state line.

- .v Purpose of Use: Instream flow use.
 - .vi Period of Use: January 1 - December 31.
 - .vii Annual Volume of Consumptive Use: None other than natural consumption.
 - .viii Place of Use/Legal Description of Reservation: Within the Park.
 - .ix Basis of Right: Reservation under the Act of March 1, 1872, ch. XXIV, 17 Stat. 32.
 - .x Comments: None.
- .4 Right No. 21-11962.
- .i Source: Boundary Creek and all of its tributaries.
 - .ii Amount of Water: Entire flow of source in excess of amount diverted by Right No. 21-11958 [Article 5.2.1].
 - .iii Date of Priority: March 1, 1872.
 - .iv Beginning and Ending Point of Instream Flow: Beginning where each segment of Boundary Creek or any of its tributaries arises on the Park, or crosses the state line or crosses the Park boundary and enters the Park and

ending where each segment of Boundary Creek or any of its tributaries flows out of the Park or across the state line.

- .v Purpose of Use: Instream flow use.
 - .vi Period of Use: January 1 - December 31.
 - .vii Annual Volume of Consumptive Use: None other than natural consumption.
 - .viii Place of Use/Legal Description of Reservation: Within the Park.
 - .ix Basis of Right: Reservation under the Act of March 1, 1872, ch. XXIV, 17 Stat. 32.
 - .x Comments: None.
- .5 Right No. 21-11963.
- .i Source: South Fork Partridge Creek and all of its tributaries.
 - .ii Amount of Water: Entire flow of source in excess of amount diverted by Right No. 21-11958 [Article 5.2.1].
 - .iii Date of Priority: March 1, 1872.
 - .iv Beginning and Ending Point of Instream Flow: Beginning where each segment of the South Fork Partridge Creek or any of its tributaries arises on the Park, or crosses the state line or crosses the Park boundary and enters the Park and ending where each segment of the South Fork Partridge Creek or

any of its tributaries flows out of the Park
or across the state line.

- .v Purpose of Use: Instream flow use.
 - .vi Period of Use: January 1 - December 31.
 - .vii Annual Volume of Consumptive Use: None other
than natural consumption.
 - .viii Place of Use/Legal Description of
Reservation: Within the park.
 - .ix Basis of Right: Reservation under the Act of
March 1, 1872, ch. XXIV, 17 Stat. 32.
 - .x Comments: None.
- .6 Right No. 21-11964.
- .i Source: Robinson Creek and all of its
tributaries, including Little Robinson Creek.
 - .ii Amount of Water: Entire flow of source in
excess of amount diverted by Right
No. 21-11958 [Article 5.2.1].
 - .iii Date of Priority: March 1, 1872.
 - .iv Beginning and Ending Point of Instream Flow:
Beginning where each segment of the Robinson
Creek or any of its tributaries arises on the
Park, or crosses the state line or crosses
the Park boundary and enters the Park and
ending where each segment of the Robinson
Creek or any of its tributaries flows out of
the Park or across the state line.
 - .v Purpose of Use: Instream flow use.

- .vi Period of Use: January 1 - December 31.
 - .vii Annual Volume of Consumptive Use: None other than natural consumption.
 - .viii Place of Use/Legal Description of Reservation: Within the Park.
 - .ix Basis of Right: Reservation under the Act of March 1, 1872, ch. XXIV, 17 Stat. 32.
 - .x Comments: None.
- .7 Right No. 21-11965.
- .i Source: Rock Creek and all of its tributaries.
 - .ii Amount of Water: Entire flow of source in excess of amount diverted by Right No. 21-11958 [Article 5.2.1].
 - .iii Date of Priority: March 1, 1872.
 - .iv Beginning and Ending Point of Instream Flow: Beginning where each segment of the Rock Creek or any of its tributaries arises on the Park, or crosses the state line or crosses the Park boundary and enters the Park and ending where each segment of the Rock Creek or any of its tributaries flows out of the Park or across the state line.
 - .v Purpose of Use: Instream flow use.
 - .vi Period of Use: January 1 - December 31.
 - .vii Annual Volume of Consumptive Use: None other than natural consumption.

- .viii Place of Use/Legal Description of
Reservation: Within the Park.
 - .ix Basis of Right: Reservation under the Act of
March 1, 1872, ch. XXIV, 17 Stat. 32.
 - .x Comments: None.
- .8 Right No. 21-11966.
- .i Source: Buffalo Lake
 - .ii Amount of Water: The amount of water
necessary to maintain the lake at its natural
level.
 - .iii Date of Priority: March 1, 1872
 - .iv Beginning and Ending Point of Instream Flow:
Not applicable.
 - .v Purpose of Use: Lake level uses.
 - .vi Period of Use: January 1 - December 31.
 - .vii Annual Volume of Consumptive Use: None other
than natural consumption.
 - .viii Place of Use/Legal Description of
Reservation: Within the Park.
 - .ix Basis of Right: Reservation under the Act of
March 1, 1872, ch. XXIV, 17 Stat. 35.
 - .x Comments: None.
- .9 Right No. 21-11967.
- .i Source: Robinson Lake
 - .ii Amount of Water: The amount of water
necessary to maintain the lake at its natural
level.

- .iii Date of Priority: March 1, 1872
 - .iv Beginning and Ending Point of Instream Flow:
Not applicable.
 - .v Purpose of Use: Lake level uses.
 - .vi Period of Use: January 1 - December 31.
 - .vii Annual Volume of Consumptive Use: None other
than natural consumption.
 - .viii Place of Use/Legal Description of
Reservation: Within the Park.
 - .ix Basis of Right: Reservation under the Act of
March 1, 1872, ch. XXIV, 17 Stat. 35.
 - .x Comments: None.
- .10 Right No. 21-11968.
- .i Source: Unnamed lakes, identified by the
approximate location of their center points as
follows:

Lake No.	Latitude	Longitude
1	44°08'31"N	111°03'27"W
2	44°09'28"N	111°05'23"W
3	44°09'40"N	111°05'00"W
4	44°09'41"N	111°05'40"W
5	44°09'52"N	111°05'21"W
6	44°09'52"N	111°04'48"W
7	44°09'51"N	111°04'31"W
8	44°09'59"N	111°04'38"W
9	44°10'04"N	111°04'54"W
10	44°10'12"N	111°05'19"W
11	44°10'18"N	111°04'43"W
12	44°10'25"N	111°04'12"W
13	44°10'32"N	111°03'25"W
14	44°10'40"N	111°03'56"W
15	44°10'48"N	111°04'02"W
16	44°10'49"N	111°03'38"W
17	44°10'51"N	111°03'40"W
18	44°13'51"N	111°03'29"W

19	44°20'15"N	111°05'28"W
20	44°22'05"N	111°05'13"W
21	44°22'30"N	111°04'04"W
22	44°22'31"N	111°04'03"W
23	44°22'33"N	111°03'59"W
24	44°22'37"N	111°04'04"W

- .ii Amount of Water: The amount of water necessary to maintain the lakes at their natural level.
- .iii Date of Priority: March 1, 1872.
- .iv Beginning and Ending Point of Instream Flow: Not applicable.
- .v Purpose: Lake level uses.
- .vi Period of Use: January 1 - December 31.
- .vii Annual Volume of Consumptive Use: None other than natural consumption.
- .viii Place of Use/Legal Description of Reservation: Within the Park.
- .ix Basis of Right: Reservation under the Act of March 1, 1872, ch. XXIV, 17 Stat. 35.
- .x Comments: None.

5.4 The United States may also divert water for fire suppression in accordance with the following paragraph to be included in the final decree in this matter:

"The use of water for fire suppression benefits the public. Water diverted for fire suppression may be taken randomly, without a definition of the specific elements of a recordable water right, and if so diverted for fire suppression, existing water rights shall not be diminished."

- 5.5 The rights described in this Agreement are Federal Reserved Water Rights with all the characteristics appertaining thereto. Non-use of all or any part of the Federal Reserved Water Rights shall not constitute a relinquishment, forfeiture or abandonment of the rights.
- 5.6 The United States shall not change any element of any Federal Reserved Water Right described in Article 5.
- 5.7 The United States shall manage the Park for the preservation of the natural flow regime of the water system and shall retain the water system in its natural condition; however, this section does not limit the diversion of water under the rights described at Articles 5.2 and 5.4 of this Agreement.
- 5.8 The United States claims such ground water as is necessary to maintain the natural thermal features such as geysers, mudpots, hot springs, and similar features of the Park. Because the parties are not able to quantify or otherwise describe the amount, sources or temperature of ground water that may be required to protect these natural thermal features, this Agreement does not address this claim. Such claim is left for resolution when the need arises. This Agreement quantifies all other ground water right claims of the United States.

6. Finality of Settlement Agreement

- 6.1 The parties agree that this Agreement will be submitted to the Director in lieu of a notice of claim in the SRBA, that

the Director will submit this Agreement and an abstract of this Agreement to the Fifth Judicial District Court of the State of Idaho in and for the County of Twin Falls as part of a Director's Report, and that state law allows other persons not signatory to this Agreement to file objections to the approval of this Agreement by the District Court.

6.2 The parties agree to move the Court for adoption of a decree awarding the United States the water rights set forth in this Agreement, and to jointly support and defend this Agreement against any and all objections or other challenges that may arise in any phase of the SRBA, including any appeals, and in securing any necessary ratification of the Agreement. If the Court, after notice and hearing, fails to approve the terms of this Agreement, then this Agreement shall be null and void.

6.4 The United States' water rights for the Park confirmed in Agreement 5 shall be final and conclusive as to all parties to the SRBA upon the completion of all judicial proceedings, including any appeals, relative to this Agreement.

7. Disclaimers and Reservation of Rights

7.1 Except for the United States' water rights recognized in Article 5, the United States hereby relinquishes forever any and all existing claims to water under federal and state law from any source for present and future use in the Park.

- 7.2 This Agreement has been reached through good faith negotiations for the purpose of resolving legal disputes, including pending litigation, and all parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest or be used in any legal proceeding .
- 7.3 Entry of judgment as set forth above has been consented to by the parties without trial or adjudication of fact or law herein and without the judgment constituting evidence or an admission by any party, with respect to any such issue, which is, will be, or could be litigated in any proceeding other than the SRBA. See McShan v. Omega Louis Brandt et Frere, S.A., 536 F.2d 516, 519 (2d Cir. 1976). Once this Agreement becomes effective as provided by Article 13.1, the water rights described in Article 5 of this Agreement shall be binding upon all parties to the SRBA, whether signatory to the Agreement or not.
- 7.4 Nothing in this Agreement shall be so construed or interpreted:
- .1 To establish any standard to be used for the quantification of Federal Reserved Water Rights in any judicial or administrative proceeding;
 - .2 To determine the relative rights inter sese of persons using water under the authority of state law or to authorize the taking of a water right which is vested under state or federal law;

- .3 To limit in any way the rights of the parties or any person to litigate any issue or question not resolved by this Agreement;
 - .4 To restrict the acquisition or exercise of an appropriative right to the use of water under state law, provided the water rights confirmed in this Agreement have been fully used at the time the application is made or are not physically available for use through reasonable diversion facilities.
 - .5 To restrict the power of the United States to reserve water in the future, in accordance with applicable law.
- 7.5 Although this Agreement recognizes a water right to the entire flow of several different sources, because of the unique nature of Yellowstone National Park, the Agreement shall not constitute an admission or precedent for any other federal water right claim.
- 7.6 The parties are unable to agree upon who may administer the water rights set forth in this Agreement. Accordingly, this Agreement does not address or resolve this issue. Each party reserves the right to litigate the issue of administration, if and when the issue arises.

8. Severability

- 8.1 This Agreement is not severable.

9. Successors

- 9.1 This Agreement shall bind and inure to the benefit of the respective successors of the parties.

10. Entire Agreement

- 10.1 This Agreement sets forth all the covenants, promises, provisions, agreements, conditions, and understandings between the parties and there are no covenants, provisions, promises, agreements, conditions, or understandings, either oral or written between them other than are herein set forth.

11. Effect of Headings

- 11.1 Headings appearing in this Agreement are inserted for convenience and reference and shall not be construed as interpretations of the text.

12. Multiple Originals

- 12.1 This Agreement is executed in quintuplicate. Each of the five (5) Agreements with an original signature of each party shall be an original.

13. Effective Date

- 13.1 This Agreement shall be effective when all of the following events have occurred:

- .1 This Agreement is executed; and

.2 The water rights described in Article 5 of this Agreement have been confirmed in a decree in the SRBA and such decree has become final and nonappealable.

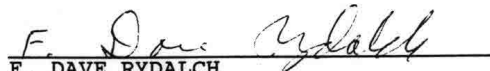
The parties have executed this Agreement on the date following their respective signatures.


CECIL D. ANDRUS
Governor, State of Idaho

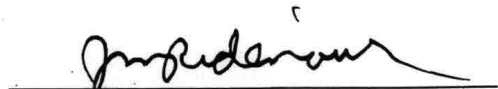
5-13-92
Date


LARRY ECHOHAWK
Attorney General, State of Idaho

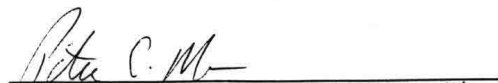
5-14-92
Date


F. DAVE RYDALCH
Chair, Idaho Water Resource Board

1/16/1992
Date


United States Dept. of the Interior

1/24/92
Date


United States Department of Justice

1/17/92
Date

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Docket Information

Number of Documents in Docket 65

Documents Dated from 6/11/1992 to 2/19/1997

Docket Compiled: 3/28/2012