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Department of Water Resources

U.S. Department of Justice

Environment and Natural Resources Division

DG:DAJ

90-6-2-63C

David A. Jarvis
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Denver, Colorado 80202

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May 12, 2003

via FedEx Mail

Diana R. Delaney, Chief Deputy Clerk
Snake River Basin Adjudication
DISTRICT COURT
253 Third Ave., North
Twin Falls, Idaho 83303-2707

Re: SRBA Case No. 39576
Subcase No. 65-3004, 65-3006B, and 65-3007

Dear Ms. Delaney:

Enclosed for filing are the following original documents in the above mentioned subcases:

1. **STANDARD FORMS 5 - STIPULATED ELEMENTS OF A WATER RIGHT** (to settle the Separate Streams General Provision)

Thank you for your time and attention in this matter.

Sincerely,

David A. Jarvis
Paralegal

Enclosures

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

In Re SRBA

Case No. 39576

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)

Subcase Nos.: 65-3006B

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 as recommended in the director's report with the following additional language added to the "*Other Provisions Necessary for Administration*":

Basin 65 General Provisions No. 3, the Separate Streams General Provision, does not apply to appropriations of water after October 18, 1977.

This water right shall be administered as being from a separate source pursuant to Basin 65 General Provision No. 3. If the holder of this right seeks to change the right pursuant to Idaho Code § 42-222 or successor statute, nothing in this general provision shall preclude any other person or entity from demonstrating that such change in use would cause injury to its water right or from receiving any relief provided by law in the event of injury.

Scott H. Campbell, Counsel for
Claimant

Date 4/11/03 Claimant

Date

Marcia H. Herr & Rodney H. Herr

David W. Gehlert 7/24/02

Objector, David W. Gehlert, Atty. Date

U.S. Department of Justice, Environment and Natural Resources Div.

David J. Barber 7/29/02
Deputy Attorney for the State of Idaho Date

Dunde T. Stang 7/29/02
IDWR Concurrence Date

Sam Harsh 7/26/02
Attorney for IDWR Date

CERTIFICATE OF MAILING

I certify that on May 12, 2002, I mailed the original and copies of this form, including all attachments, postage prepaid and addressed as follows:

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

2. Copies to:

Idaho Department of Water Resources
Adjudication Bureau
1301 North Orchard Street
Boise, Idaho 83706

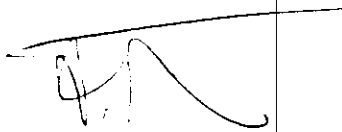
U.S. Department of Justice
Environment and Natural Resources Div.
550 West Fort Street, MSC 033
Boise, Idaho 83724

IDWR Document Depository
P. O. Box 83720
Boise, Idaho 83720-0098

3. Copies to all parties to the subcase (insert names and addresses):

Regional Director, PN Region Code 3100
U.S. Bureau of Reclamation
1150 N. Curtis Road, Suite 100
Boise, ID 83706-1234

Marcia H. Herr & Rodney H. Herr
400 Coston Dr.
Boise, ID 83712



Signature of person or attorney filing the form

David J. Baber 7/29/02
Deputy Attorney for the State of Idaho Date

D. de Tull 7/29/02
IDWR Concurrence Date

Sara Martin 7/26/02
Attorney for IDWR Date

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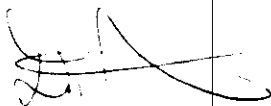
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Boise, ID 83706-1234

Rodney H. Herr & Marcia H. Herr
400 Coston Dr.
Boise, ID 83712



Signature of person or attorney filing the form

Objector, David W. Gehlert, Atty.	Date
U.S. Department of Justice, Environment and Natural Resources Div.	

David J. Baker 7/29/02
Deputy Attorney for the State of Idaho Date

David E. Tuttle 7/29/02
IDWR Concurrence Date

Sam Hanks 7/26/02
Attorney for IDWR Date

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[Signature]

Signature of person or attorney filing the form