

**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. <u>63-09642</u>
	)	
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 the facts, date, expert opinions and law supporting the issuance of a partial decree for the water right.

The parties agree that the Snake River 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 claim. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT:

Middle Fork Associates

R.D. Hemberger 5/26/04
Richard D. Hemberger Date
Attorney for Middle Fork Associates

OBJECTORS:

United States on behalf of the
USDA Forest Service

David L. Negri 5/26/04
David L. Negri Date

IDWR CONCURRENCE:

Jan Shurte 5/26/04
Jan Shurte Date

ATTORNEY FOR IDWR:

Nicholas B. Spencer 5-26-04
Nicholas B. Spencer Date

CERTIFICATE OF MAILING

I certify that on May 26, 2004, I mailed the original and copies of this form, including all attachments, postage prepaid and addressed as follows:

Original to:

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

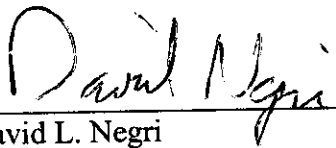
Copy to:

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

United States Department of Justice
Environment and Natural Resources Division
550 W. Fort Street, MSC 033
Boise, ID 83724

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

Middle Fork Associates
C/O Richard D. Himberger
Himberger Law Offices
575 E. Parkcenter Blvd., Ste. 100
Boise, ID 83706



David L. Negri



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

RIGHT NUMBER: 63-9642

NAME AND ADDRESS:

MIDDLE FORK ASSOC
C/O GREG AUCH
11477 HIGHLANDER RD
BOISE ID 83709

SOURCE:

Source:
GROUND WATER
PHIFER CREEK
~~UNNAMED STREAM~~

Tributary:

MIDDLE FORK BOISE RIVER
MIDDLE FORK BOISE RIVER
~~MIDDLE FORK BOISE RIVER~~

QUANTITY:

0.440 CFS ~~1.000 CFS~~
77.600 AFY

PRIORITY DATE:

11/06/1980

POINT OF DIVERSION:

~~T05N R09E S2 SESE Within ELMORE County~~
~~T05N R09E S3 NWNE Within ELMORE County~~
~~T05N R09E S3 SWNE Within ELMORE County~~
~~T06N R09E S35 NESE Within ELMORE County~~
~~T06N R09E S35 SWNE Within ELMORE County~~
~~T06N R09E S36 SWSW Within ELMORE County~~PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

MINING

04/01 11/010.440 CFS 77.60 AFY~~1/01 12/31~~~~1.000 CFS~~

PLACE OF USE:

MINING

within ELMORE County

~~T05N R09E S02 NENW~~
~~T05N R09E S02 NWNW Lot 4~~~~T05N R09E S02 SWNW~~
~~T05N R09E S02 SENW~~
~~T05N R09E S03 NENE~~
~~T05N R09E S03 NWNE~~
~~T05N R09E S03 SWNE~~
~~T05N R09E S03 SENE~~

T06N R09E S35 SWNE

T06N R09E S35 SENE

T06N R09E S35 SENW

T06N R09E S35 NESW

T06N R09E S35 NESE

T06N R09E S35 NWSE

T06N R09E S35 SWSE

T06N R09E S35 SESE

T05N R09E S36 SWNET05N R09E S36 SWNWT05N R09E S36 SENWT05N R09E S36 NESWT05N R09E S36 NWSW

Jp
NBS
DN

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

The points of diversion and places of use for this water right are on National Forest System land, further the places of use are on unpatented placer mining claims known as Wishful No. 1, Wishful No. 2, and Wishful No. 3.

This water right is only for use on the mining claims listed above for mining purposes authorized under state and federal law.

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.

~~THIS RIGHT IS CONDITIONED UPON COMPLETION OF THE APPROPRIATION IN ACCORDANCE WITH THE STATUTORY PROCEDURE FOR APPROPRIATION OF WATER RIGHTS. THIS RIGHT REMAINS SUBJECT TO ALL CONDITIONS SET FORTH IN THE PERMIT UPON WHICH THIS RIGHT IS BASED, AND WILL BE SUBJECT TO ALL CONDITIONS SET FORTH IN THE LICENSE ISSUED BY IDWR UPON COMPLETION OF THE STATUTORY APPROPRIATION PROCESS.~~

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

~~BASIS OF CLAIM - Permit~~