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AUG 19 2004

DEPARTMENT OF
WATER RESOURCES

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

In Re SRBA

Subcase No. 63-5408

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.

CLAIMANT(S):

Thomas Emil Nicholson by Thomas T. Nicholson by P. of A. 8/9/04
Thomas Emil Nicholson Date
claimant

Thomas T. Nicholson, G.P. 8/9/04
C & T Ranches Date
claimant

William Patrick Hughes by Thomas T. Nicholson by P. of A. 8/9/04
William Patrick Hughes Date
claimant

Christine Nicholson by Thomas T. Nicholson by P. of A. 8/9/04
Christine Nicholson Date
claimant

Scott R. Nicholson by Thomas T. Nicholson by P of A 8/9/04
Scott R. Nicholson Date
claimant

Kelli A. Nicholson by Thomas T. Nicholson by P of A 8/9/04
Kelli A. Nicholson Date
claimant

OBJECTOR(s):
USDI Bureau of Reclamation

David Gehlert 7/13/04
David Gehlert Date
Trial Attorney, General Litigation Section
U.S. Dept. of Justice

IDWR Concurrence:

David R. Tuttle 7/23/04
Jan Shurte Date
Adjudication Supervisor

William E. Morris 8/9/04
William E. Morris Date
claimant
Jennifer J. Nicholson by Thomas T. Nicholson by P of A 8/9/04
Jennifer J. Nicholson Date
claimant

OBJECTOR(s):
Boise Project Board of Control

Albert P. Barker
Albert P. Barker Date
Attorney for Objector(s)

Susan Hamlin Nygard 7/22/04
Susan Hamlin Nygard Date
Deputy Attorney General

CERTIFICATE OF MAILING

I certify that on August 18, 200⁴~~8~~, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

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

2. Copies to:

USDI Bureau of Reclamation
US Department of Justice
Environment & Natural Resources
550 West Fort Street, MSC 033
Boise, ID 83724

Scott, Thomas, Christine, Kelli, & Jennifer Nicholson
William E. Morris
William P. Hughes
C & T Ranches
P.O. Box 690
Meridian, ID 83680

Albert P. Barker
Amy Chestnut
Barker, Rosholt & Simpson LLP
P.O. Box 2139
Boise, ID 83701-2139

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

Dale Walton
Signature of person or attorney mailing the form

08/12/2003

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

RIGHT NUMBER: 63-5408

NAME AND ADDRESS: SCOTT R NICHOLSON
PO BOX 690
MERIDIAN ID 83680-0690

THOMAS EMIL NICHOLSON
PO BOX 690
MERIDIAN ID 83680-0690

CHRISTINE NICHOLSON
PO BOX 690
MERIDIAN ID 83680-0690

KELLI A NICHOLSON
PO BOX 690
MERIDIAN ID 83680-0690

JENNIFER J NICHOLSON
PO BOX 690
MERIDIAN ID 83680-0690

WILLIAM E MORRIS
PO BOX 690
MERIDIAN ID 83680-0690

WILLIAM PATRICK HUGHES
PO BOX 690
MERIDIAN ID 83680-0690

C & T RANCHES INC
PO BOX 690
MERIDIAN ID 83680-0690

SOURCE: DUNNIGAN CREEK TRIBUTARY: MORES CREEK

QUANTITY: 3.210 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE
SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 03/11/1884

POINT OF
DIVERSION: T04N R04E S22 NWSWNE Within BOISE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.070 CFS

SF5 - 63-5408

08/12/2003

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

IRRIGATION

03/15 11/15

3.140 CFS

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir and/or Lake Lowell as decreed in SRBA Case No. 39576.

PLACE OF USE: IRRIGATION Within BOISE County

T04N R04E S15	SWSW	9.0	T04N R04E S21	NENE	23.3
T04N R04E S21	SENE	25.7	T04N R04E S21	NESE	10.6
T04N R04E S22	NWNW	10.7			

STOCKWATER same as IRRIGATION

79.3 ACRES TOTAL

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

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Dr. Schen
APK
Dr.

mt View

①

155676

95 APR 14 PM 3:37

POWER OF ATTORNEY

Shirley Henge
\$12.00

We, Scott Nicholson, Keli Elledge, Jenifer Nicholson, Jon Nicholson, Christine Withrow, Kelly Maxwell, William Nicholson, Thomas E. Nicholson (a minor), who have an undivided ownership of the land described below, more commonly known as the Dunnigan Creek land, do hereby grant Thomas T. Nicholson the power to prepare and sign all government forms pertaining to the rehabilitation or maintenance of the land (such as seeding, reforestation, etc.), to grant permanent and temporary easements or right of ways, and any other act that will be to the benefit of the land and its owners.

The legal description of the Dunnigan Creek land is:

Township 4 North, Range 4 East, B.M.:

Section 21, E2NE4, NE4NE4
 Section 22, NE4NE4, NW4NW4, S2, S2N2
 Section 23, NW4NW4, S2N2, S2
 Section 24, S2NW4, S2
 Section 26, NW4NW4
 Section 27, E2, E2W2, SW4SW4
 Section 33, E2NE4
 Section 34, N2

This power of attorney, dated March 8, 1993, supercedes any prior powers of attorney and will remain in force until revoked by a majority percent of ownership.

Scott Nicholson
 Scott Nicholson

Keli Elledge
 Keli Elledge (formerly Keli Nicholson)

Jenifer Nicholson
 Jenifer Nicholson

Jon Nicholson
 Jon Nicholson

Christine M. Withrow
 Christine Withrow (formerly Christine Nicholson)

Kelly A Maxwell
 Kelly Maxwell

William Nicholson
 William Nicholson, ~~a minor~~ aka William Patrick Hughes

Carl V. Nicholson
 Carl V. Nicholson for Thomas E. Nicholson, a minor

POWER OF ATTORNEY

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March 8, 1993

State of Idaho)
) ss.
County of Ada)

On this 9 day of March, 1993, before me Linda Boots, a Notary Public, personally appeared SCOTT NICHOLSON, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

Linda Boots

Linda Boots, a Notary Public
Residing at: Boise, Idaho
My Commission expires May 31, 1993

State of Idaho)
) ss.
County of Ada)

On this 15 day of March, 1993, before me Linda Boots, a notary, personally appeared KELI ELLEDGE, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

Linda Boots

Notary Public
Residing at: Boise Idaho
My Commission expires: 5/31/95

State of Idaho)
) ss.
County of Ada)

On this 9 day of March, 1993, before me Linda Boots, a notary, personally appeared JENIFER NICHOLSON, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

Linda Boots

Notary Public
Residing at: Boise Idaho
My Commission expires: 5/31/95

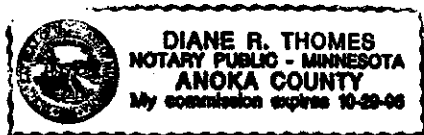
State of Idaho }
County of Valley } ss.

On this 29 day of March, 1993, before me [Signature], a notary, personally appeared JON NICHOLSON, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

[Signature]
Notary Public
Residing at: [Signature]
My Commission expires: 12/30/93

State of Minnesota }
County of Anoka } ss.

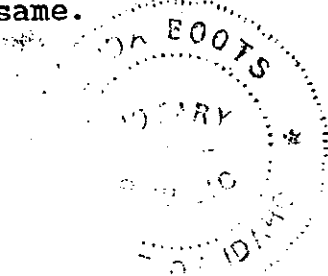
On this 20th day of March, 1993, before me Diane R. Thomas, a notary, personally appeared CHRISTINE WITHROW known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.



[Signature]
Notary Public
Residing at: Coon Rapids, MN
My Commission expires: 10-29-96

State of Idaho }
County of Ada } ss.

On this 10 day of March, 1993, before me Linda Boots, a notary, personally appeared KELLY MAXWELL, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.



[Signature]
Notary Public
Residing at: Boise, Idaho
My Commission expires: 5/31/95

POWER OF ATTORNEY
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March 8, 1993

State of Idaho)
County of Ada) ss.

On this 25 day of March, 1993, before me Linda Boots, a notary, personally appeared WILLIAM NICHOLSON, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

Linda Boots
Notary Public
Residing at: Boise Idaho
My Commission expires: 5/31/95

State of Idaho)
County of Ada) ss.

On this 9 day of March, 1993, before me Linda Boots, a notary, personally appeared CARL V. NICHOLSON, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

Linda Boots
Notary Public
Residing at: Boise Idaho
My Commission expires: 5/31/95