

LAW OFFICES OF

**RACINE, OLSON, NYE, BUDGE & BAILEY
CHARTERED**

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL
JOHN B. INGELSTROM
DANIEL C. GREEN
BRENT O. ROCHE
KIRK B. HADLEY
FRED J. LEWIS
MITCHELL W. BROWN
ERIC L. OLSEN
DAVID E. ALEXANDER
LISA M. CHRISTON
RICHARD A. HEARN, M.D.
LANE V. ERICKSON
PATRICK N. GEORGE
SCOTT J. SMITH
LISA A. WOOD, CPA
STEPHEN J. MUHONEN
BRENT L. WHITING

CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101
FACSIMILE (208) 232-6109

SENDER'S E-MAIL ADDRESS: rcb@racinelaw.net

BOISE OFFICE

CONRAD J. AIKEN
THEODORE C. PETERS
DEBORAH L. LEHOSIT
LISA R. TANNER (CA ONLY)

101 SOUTH CAPITOL
BOULEVARD, SUITE 208
BOISE, IDAHO 83702
TELEPHONE: (208) 395-0011
FACSIMILE: (208) 433-0167

IDAHO FALLS OFFICE

477 SHOUP AVENUE
SUITE 203A
IDAHO FALLS, ID 83402
TELEPHONE: (208) 528-6101
FACSIMILE: (208) 528-6109

September 28, 2004

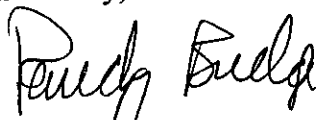
Clerk of the District Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, Idaho 83303-2707

Re: Subcase No. 29-339D - Lamar H. Barnes

Dear Clerk:

Enclosed please find for filing SF-5 in the above matter. The Stipulated Settlement Agreement entered into the record and approved by Special Master Bilyeu at the hearing this morning is being circulated for signatures and will be filed shortly.

Sincerely,


RANDALL C. BUDGE

RCB:rr

Enclosure

cc: Kent W. Foster
Chris Bromley/IDWR
Dennis Thompson

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: 29-339D

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

CLAIMANT:

OBJECTOR:

Kent W. Foster 9/16/04
Kent W. Foster Date
Attorney for Lamar Barnes

Randall C. Budge 9/28/04
Randall C. Budge Date
Attorney for Dennis O. Thompson

IDWR CONCURRENCE:

Ernie Carlsen 9/14/04
Ernie Carlsen Date
Adjudication Supervisor, IDWR

Candice M. McHugh 9/14/04
Candice M. McHugh Date
Attorney for IDWR

CERTIFICATE OF MAILING

I certify that on Sept. 28th, 2004 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:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, ID 83720-0098

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

Randall C. Budge
Attorney for Dennis O. Thompson
P.O. Box 1391
Pocatello, ID 84204-1391

Kent W. Foster
Attorney for Lamar Barnes
330 Shoup Avenue
PO Box 50130
Idaho Falls, ID 83405

Randall C. Budge
Signature of person or attorney mailing the form

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

RIGHT NUMBER: 29-339D

NAME AND ADDRESS:

LAMAR H BARNES
21175 S CAMBRIDGE RD
DOWNEY ID 83234

SOURCE:

SOURCE:
BRUSH CREEK

Tributary:

SINKS

QUANTITY:

0.220 CFS

0.100-CFS

The amount of time water is diverted under this water right may not exceed 30 hours out of a 204 hour rotation as provided for in the decree of C. B. Hancock v. Weber Nioshem (Fifth Judicial Dist. Ct., Bannock County, May 11, 1909).
USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.22 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 22.5 AF. COMBINED RIGHT NOS.: 29-339D AND 29-4284.

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.10 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 10.0 AF. COMBINED RIGHT NOS.: 29-339D AND 29-4284.

PRIORITY DATE: 05/01/1972

POINT OF DIVERSION:

T11S R37E S22 SWNEW Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

IRRIGATION

04/01 10/31

0.220 CFS

0.100-CFS

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

PLACE OF USE:

IRRIGATION

within BANNOCK County

T11S R37E S22 SWNE 4.9

T11S-R37E-S22-SWNE-4.9

T11S R37E S22 SEW 6.6

T11S-R37E-S22-SEW-6.6

11.7 ACRES TOTAL

0.3-ACRES-TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 9.3 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-339D AND 29-4284.