

**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

SUBCASE NO. 29-13694
(FORMERLY WATER RIGHT NO.
29-4272)

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.

As a result of settlement, water right no. 29-4272 has been split into water right nos. 29-13694 and 29-13695. Therefore, the claimant and IDWR agree and stipulate that water right no. 29-13694 should be described per the attached. The claimant and IDWR have further indicated their concurrence by their signatures below and by initialing the attached page.

CLAIMANT/ OBJECTOR:

Ray J. Benham 10 Oct 04
Ray J. Benham Date

CLAIMANT/ OBJECTOR:

Evelyn J. Benham Date
See ATTACHED change of ownership form

IDWR CONCURRENCE:

Ernie Carlson 9-30-04
Ernie Carlson Date
Adjudication Supervisor, IDWR

Candice M. McHugh 9-30-04
Candice M. McHugh Date
Attorney for IDWR

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

RIGHT NUMBER: 29-13694
NAME AND ADDRESS: EVELYN J BENHAM
5312 W TUCANNON
KENNEWICK WA 99336
RAY D BENHAM
5312 W TUCANNON
KENNEWICK WA 99336
SOURCE: SPRING TRIBUTARY: PORTNEUF RIVER

QUANTITY: 0.880 CFS
THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC AND STOCKWATER USES SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 10/15/1898

POINT OF DIVERSION: T09S R38E S10 NWSWSE Within BANNOCK County

PURPOSE AND PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	0.020 CFS
IRRIGATION	04/01 10/31	0.840 CFS
STOCKWATER	01/01 12/31	0.020 CFS

Domestic use is for 1 home.

PLACE OF USE: IRRIGATION Within BANNOCK County
T09S R38E S10 NESW 15.0 T09S R38E S10 Lot 1 NWSW 6.3
T09S R38E S10 Lot 2 SWSW 4.7 T09S R38E S10 SESEW 16.0
DOMESTIC Within BANNOCK County
T09S R38E S10 Lot 2 SWSW
STOCKWATER same as IRRIGATION

42 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 DOMESTIC USE AND STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Posted Notice

SOURCE IS ALSO KNOWN AS HADLEY SPRING OR BLASER SPRING.

USE OF THIS RIGHT IS COMBINED WITH WATER FROM DEMPSEY-TOPAZ CANAL.

Stockwater use is for 200 range cattle.

EMC
SMC
R-13

CERTIFICATE OF MAILING

I certify that on 11 Oct, 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

Ray and Evelyn Benham
5312 W. Tucannon Ave.
Kennewick, WA 99336

Ray J Benham
Signature of person or attorney mailing the form