

RECEIVED

FEB 03 1995

Department of Water Resources

1995 FEB -1 AM 10:56

DISTRICT COURT - SRBA

COPY

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

)
)
)
)
)
)
)

STANDARD FORM 5

SUBCASE NO: 34-10167

PROPOSED ELEMENTS OF A
WATER RIGHT

This form is used to report the proposed elements of one federal reserved water right or one water right acquired under state law. Submission of this form will not result in the automatic 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 have appeared, prosecuted and defended their positions with regard to this water right dispute.

INSTRUCTION FOR USE

A copy of this water right as recommended in the director's report shall be submitted with this form. A statement shall accompany each element of a water right.

Elements where there has been no objection should be listed exactly as they appear in the director's report. The statement as to an uncontested element shall state "as recommended in the director's report."

Contested elements that are the result of an objection filed with the court shall be accompanied by a statement fully describing all facts, documents, expert opinions and law which support the element of the water right (attach additional pages if necessary).

1. The name and address of the claimant is:
Herb Whitworth
Star Route
Mackay, Id 83251

Required Statement: As recommended in the Director's Report.

2. The source of water is: Thousand Springs Creek

Required Statement: As recommended in the Director's Report.

3. The quantity of water used in cubic feet per second or the quantity of water stored in acre-feet per year is: 6.35 cfs

Required Statement: As recommended in the Director's Report.

4. The priority date is: May 1, 1937

Required Statement: As recommended in the Director's Report.

5. The legal description of point(s) of diversion is; if the claim is for an instream flow, than a legal description of the beginning and ending points of the claimed instream flow:

T8N R22E Sec. 3 SENWNE
T9N R22E Sec. 34 SWSENW

Required Statement: As recommended in the Director's Report.

6. The purpose of use is: Irrigation/Stockwater

Required Statement: As recommended in the Director's Report.

7. The period of year when the water is to be used is:

Irrigation: 5/1 - 10/15
Stockwater: 10/16 - 4/30

Required Statement: As recommended in the Director's Report.

8. The legal description of the place of use or of the reservation is:

T8N R22E Sec.2 Lot4 (NWNW)31.0 SWNW 40.0

NESW 20.0 NWSW 9.0 SESW 3.0

Sec.3 Lot1 (NENE)39.0 Lot2 (NWNE)12.0 SWNE 6.0 SENE 29.0

T9N R22E Sec.34 SWSE 16.0 SESE 17.0

Required Statement: The following POU's should be deleted:

T8N R22E Sec.2 Lot3 (NENW) 1.0

T8N R22E Sec.2 SENW 10.0

T9N R22E Sec.34 Lot8 (NWSE) 4.0

9. The annual volume of consumptive use is: 1965.0 af

Required Statement: The annual volume of consumptive use is reduced from 2002.5 to 1965.0 af proportionate with a reduction of acres

10. Other matters necessary to define this water right

The portion of this right for stockwater purposes may be diverted so long as the amount of water diverted at the point of diversion for stockwater purposes does not constitute unreasonable waste and does not conflict with the public interest, as determined by the director.

1.91 cfs of this right is limited to use for conveyance losses in delivery of this right.

Use of this right with rights listed below is limited to a total combined diversion rate of 31.44 cfs, a total combined annual consumptive use volume of 1965.0 af, and to the irrigation of a combined total of 786 acres in a single irrigation season.

Combined right nos.: 34-00755, 34-00757, 34-00758, 34-00766, 34-10164, 34-10167, 34-00363, 34-00364, 34-00760, 34-00764, 34-10166, 34-10165.

0.90 cfs of 34-00363, 1.6 cfs of 34-00760, 1.3 cfs of 34-00764, 2.1 cfs of 34-00364, 3.14 cfs of 34-10166 is limited to use for conveyance losses in delivery of those rights listed above.

These matters are necessary because: The are recommended in the Director's Report and help define the water right. The combined diversion rate and use amounts are reduced proportionate with the reduction of acres.

These matters do not fall within the 9 elements listed above because:

Signature and Address of Parties and their Attorney of Record
(attach additional page if necessary)

I have read this form and know its contents and that the
statements are true to the best of my knowledge and belief.

Name: Herb Whitworth

Name: United States through

Address: Star Route
City/State: Mackay, Id
Zip: 83251
Attorney of Record:

Address: Dept. of Justice for BLM
601 Pennsylvania Ave. NW
City/State: Washington, DC 20004
Attorney of Record: R. Lee Leininger

Herb Whitworth 1/3/95
Party's Signature Date

~~A. Lynne Krogh~~ 1/30/95
Attorney's Signature Date

R. Lee Leininger 12/22/94
Attorney's Signature Date

Court Representative Date
(if necessary)

Name: IDWR
Address: 1301 N. Orchard St.
City: Boise
State/Zip: Idaho 83706
Attorney of Record: A. Lynne Krogh

A. Lynne Krogh 1/30/95
Attorney's Signature Date

INSTRUCTIONS FOR MAILING

You must mail the form, including all attachments, to the Clerk of the SRBA Court and to the parties identified in the Certificate of Mailing. **FAX filings will not be accepted by the SRBA Clerk of the Court.**

You must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I certify that on Jan 30, 1995, 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:

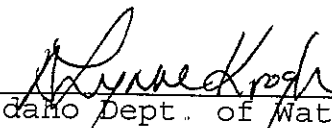
1. Original to:

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:

Herb Whitworth
Star Route
Mackay, Id 83251

Department of Justice
C/O Boise Adjudication Team
380 Park Center Blvd. - Suite 330
Boise, Idaho 83706


Idaho Dept. of Water Resource