

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. 83-04180

Case No. 39576

Standard Form 5

STIPULATED ELEMENTS
OF A WATER RIGHT

RECEIVED
APR 14 2005
IDWR/North

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.

CLAIMANTS:

Lola Tustison 4-12-5
Lola Tustison Date

Dale Tustison 4/12/05
Dale Tustison Date

OBJECTOR:

United States on behalf of the
USDA Forest Service

David L. Negri 4/22/05
David L. Negri Date

IDWR CONCURRENCE:

Kenneth Knoblock 4/14/5
Kenneth Knoblock Date
Sr. Water Resource Agent

ATTORNEY FOR IDWR:

Candice McHugh 4/21/05
Candice McHugh Date
Deputy Attorney General
Attorney for IDWR

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

RIGHT NUMBER: 83-4180

NAME AND ADDRESS: LOLA TUSTISON
6135 S I
TACOMA WA 98408

DALE TUSTISON
6135 S I
TACOMA WA 98408

SOURCE: INDEPENDENCE CREEK

TRIBUTARY: MOOSE CREEK

QUANTITY: 0.130 CFS

The quantity of water for domestic use under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 01/01/1948

POINT OF DIVERSION:

T40N R11E S19 SWNESW Within CLEARWATER County

PURPOSE AND
PERIOD OF USE:

Purpose of use	Period of use	Quantity
DOMESTIC	02/01 11/01	0.040 CFS
FIRE PROTECTION	02/01 11/01	0.040 CFS
MINING	01/01 12/31	0.050 CFS

PLACE OF USE: MINING Within CLEARWATER County

T40N R11E S29	SWNW	T40N R11E S30	NENE
T40N R11E S30	SENE		
DOMESTIC same as MINING			
FIRE PROTECTION same as MINING			

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 is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: Beneficial Use

PROPERTY IS THE LAST CHANCE MINING CLAIM, MS3539.

CERTIFICATE OF MAILING

I certify that on May 28, 2005, 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

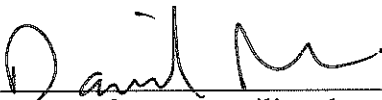
Copy to:

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):

Lola Tustison
Dale Tustison
6135 S I
Tacoma, WA 98408



Signature of person mailing documents