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DEPARTMENT OF
WATER RESOURCESIN 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. 63-3170

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.

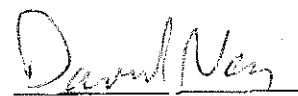
CLAIMANT(s):

Vander Stelt Dairy

 3-19-07
Dennis Vander Stelt Date

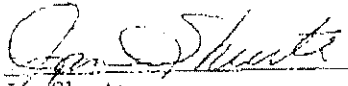
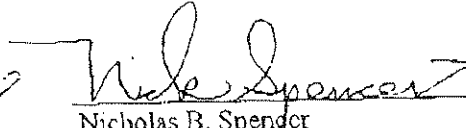
OBJECTOR(s):

USDI-BLM

 3/20/07
Larry Brown FWP Date
Trial Attorney, General Litigation Section
U.S. Dept. of Justice

STANDARD FORM 5 - 63-3170

DWR Concurrence:

	
<u>Jim Shurtz</u>	<u>Nicholas B. Spender</u>
Adjudication Supervisor	Deputy Attorney General
<u>3-14-07</u>	<u>3-14-07</u>
Date	Date

SFS Right No. 63-3170

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

RIGHT NUMBER: 63-3170

NAME AND ADDRESS:

VANDER STELT DAIRY
2777 SWAN FALLS RD
KONA ID 83634

SOURCE:

Source:
GROUND WATER

Tributary:

QUANTITY:

4.050 CFS
1,605.200 AFY

The total instantaneous diversion of water from all points of diversion under water right nos. 63-3023, 63-3170, 63-8087, 63-18592 and 63-18594 shall not exceed 9.25 cfs, nor a total combined annual volume of 3520.6 af for irrigation of 382.0 total acres.

PRIORITY DATE: 09/17/1959

POINTS OF DIVERSION:

T02N R01W S35 S6NW
Within ADA County

T02N R01W S35 N6EW
Within ADA County

T02N R01W S35 NESE
Within ADA County

T02N R01W S35 N4SE
Within ADA County

T02N R01W S35 S6SE
Within ADA County

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use: Quantity:

IRRIGATION

03/01 11/15 3.570 CFS 1,503.00 AFY
03/15 11/15

STOCKWATER

01/01 12/31 0.490 CFS 51.60 AFY

COMMERCIAL

01/01 12/31 0.490 CFS 50.60 AFY

~~THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 1, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE MARCH 16 UNDER THIS RIGHT IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATE EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECEMBER 16 ENTERED FOR THIS RIGHT.~~

SFS Right No. 63-3170

SFS Right No. 63-3170

PL. OF USE:

IRRIGATION

T02N R01W S26 SWSW 4.0
T02N R01W S35 NENE 19.0
T02N R01W S35 N4NE 28.0
T02N R01W S35 SWNE 40.0
T02N R01W S35 SENE 40.0
T02N R01W S35 N4NW 30.0
T02N R01W S35 N4NW 39.0
T02N R01W S36 SWNW 40.0
T02N R01W S35 SENW 40.0
T02N R01W S35 N4SW 13.0
T02N R01W S35 N4SW 30.0
T02N R01W S35 NESE 30.0
T02N R01W S36 N4SE 12.0
T02N R01W S35 SESE 11.0

STOCKWATER

T02N R01W S26 SWSW
T02N R01W S35 NENE
T02N R01W S35 N4NE
T02N R01W S35 SWNE
T02N R01W S35 SENE
T02N R01W S35 N4NW
T02N R01W S35 N4NW
T02N R01W S35 SWNW
T02N R01W S35 SENW
T02N R01W S35 N4SW
T02N R01W S35 N4SW

T02N R01W S35 S4SW
T02N R01W S35 SESE
T02N R01W S35 N4SE
T02N R01W S35 SWSE
T02N R01W S35 S4SE

COMMERCIAL

T02N R01K S35 N4SW
T02N R01K S35 N4SW

T02N R01K S35 N4SE

382 ACRES TOTAL

within ADA County

~~T02N R01W S35 N4NE 28.0~~

~~T02N R01W S35 N4NW 30.0~~

~~T02N R01W S35 SWNW 40.0~~

~~T02N R01W S35 N4SW 13.0~~

~~T02N R01W S35 N4SW 30.0~~

~~T02N R01W S35 SWSE 16.0~~

within ADA County

~~T02N R01W S35 S4SW~~

Within ADA County

~~T02N R01W S35 N4SE~~

334 ACRES TOTAL

This right is limited to the irrigation of 334 acres within the place of use described above in a single irrigation season.

SFS Right No. 63-3170

SF5 Right No. 63-3170

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 total instantaneous diversion of water from all points of diversion under Transfer 5460 shall not exceed 9.25 cfs, nor total combined annual volume of 3620.6 af for irrigation of 382.0 total acres.~~

EXPLANATORY MATERIAL. BASIS OF CLAIM - License

After specific notification by the Department, the right holder shall record the quantity of water diverted or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.

Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.

The right holder shall accomplish the change authorized by Transfer 5460 within one (1) year of the date of approval.

~~Commercial use to be for 2000 dairy cows~~

~~This right when combined with all other rights shall provide no more than 31 cfs per acre and not more than 4.5 af per acre for irrigation of the lands above.~~

SF5 Right No. 63-3170

CERTIFICATE OF MAILING

I certify that on 3-20, 2007, 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:

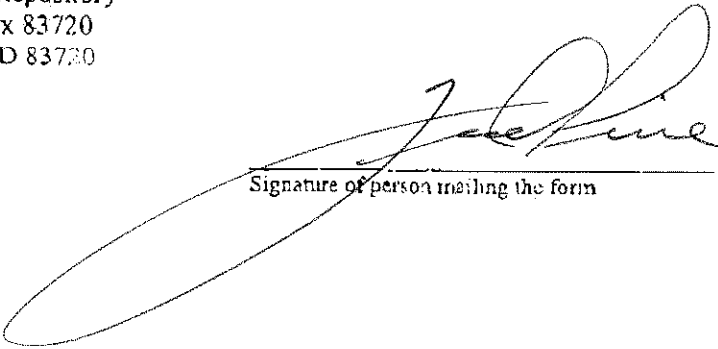
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

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

Vander Stelt Dairy
2777 Swan Falls Rd.
Kuna, ID 83634

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



Signature of person mailing the form