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DEPARTMENT OF
WATER RESOURCES

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. 63-8087
) uncontested overlap

) 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.

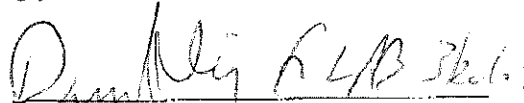
CLAIMANT(s):

Vander Stelt Dairy


Dennis Vander Stelt Date 3-19-07

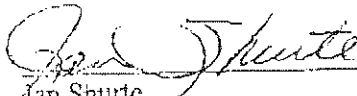
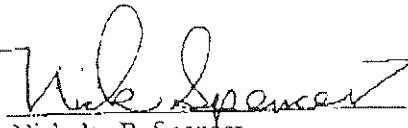
OBJECTOR(s):

USDI-BLM


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

STANDARD FORM 5 - 63-8087 - uncontested overlap

IDWR Concurrence:

	<u>3-14-07</u>		<u>3-14-07</u>
Jan Shurle	Date	Nicholas B. Spencer	Date
Adjudication Supervisor		Deputy Attorney General	

SFS Right No. 63-8087

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

RIGHT NUMBER: 63-8087

NAME AND ADDRESS:

VANDER STELT DAIRY
2777 SWAN FALLS RD
KUNA ID 83634

SOURCE:

SOURCE:

Tributary:

GROUND WATER

QUANTITY:

3.000 CFS

1,459 500 APY

The total instantaneous diversion of water from all points of diversion under water rights nos. 63-8093, 63-3170, 63-8087, 63-18592 and 63-18594 shall not exceed 9.25 cfs, nor a total combined annual volume of 3620 cfs for irrigation of 102.0 total acres.

PRIORITY DATE:

02/19/1975

POINT OF DIVERSION:

TOWN ROW S15 SE1/4
Within ADA County

TOWN ROW S15 NE1/4
Within ADA County

TOWN ROW S15 NE1/4
Within ADA County

TOWN ROW S15 NW1/4
Within ADA County

TOWN ROW S15 SW1/4
Within ADA County

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use

Quantity:

IRRIGATION

04/01 10/31

2.820 CFS

1,451.70 APY

STOCKWATER

01/01 12/31

0.160 CFS

19.10 APY

COMMERCIAL

01/01 12/31

0.180 CFS

18.70 APY

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 1 AND MAY CONTINUE TO AS LATE AS NOVEMBER 15, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 1 AND AFTER OCTOBER 31 UNDER THIS REMARK 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.

SFS Right No. 63-8087

Mar 19 07 02:53p Vander Stoll Dairy

p. 12

SFs Right No. 63-8087

PLACES OF USE:

IRRIGATION

T02N R01W S26 SWSW 4.0
 T02N R01W S35 NENE 19.0
 T02N R01W S35 NENE 26.0
 T02N R01W S35 SWNE 40.0
 T02N R01W S35 SESE 40.0
 T02N R01W S35 NENW 30.0
 T02N R01W S35 NNNW 29.0
 T02N R01W S35 EWNW 40.0
 T02N R01W S35 SEFW 40.0
 T02N R01W S35 NESW 11.0
 T02N R01W S35 NNSW 30.0
 T02N R01W S35 NESE 32.0
 T02N R01W S35 NWSE 12.0
 T02N R01W S35 SESE 11.0

STOCKWATER

T02N R01W S26 SWSW
 T02N R01W S35 NENE
 T02N R01W S35 NENE
 T02N R01W S35 SWNE
 T02N R01W S35 SESE
 T02N R01W S35 NENW
 T02N R01W S35 NNNW
 T02N R01W S35 EWNW
 T02N R01W S35 SEFW
 T02N R01W S35 NESW
 T02N R01W S35 NNSW
 T02N R01W S35 NESE
 T02N R01W S35 NWSE
 T02N R01W S35 SESE

COMMERCIAL

T02N R01W S35 NESW
 T02N R01W S35 NNSW

T02N R01W S35 NWSE

STOCKWATER - Same as IRRIGATION

102 ACRES TOTAL

within ADA County

T02N-R01W-S35-SESE-40.0

T02N-R01W-S35-NNNW-29.0

T02N-R01W-S35-NENW-30.0

T02N-R01W-S35-NNSW-30.0

T02N-R01W-S35-NWSE-12.0

within ADA County

within ADA County

T02N-R01W-S35-NENE

377-ACRES-TOTAL

SFs Right No. 63-8087

SR5 Right No. 63-8087

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(5), Idaho Code.

~~The total instantaneous diversion of water from all points of diversion under Transfer 5460 shall not exceed 9.25 cfs, not total combined annual volume of 2630.6 af for irrigation of 281.6 total acres. The right holder shall accomplish the change authorized by Transfer 5460 within one (1) year of the date of approval.~~

J
NBS
FWP
DWS
DN

EXPLANATORY MATERIAL: BASIS OF CLAIM - NBS&S

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

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.

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.

~~Commercial use for the Garry is located in the NSEW, NWSW and NWSW, 635, T2N, R2W~~

~~This right when combined with all other rights shall provide no more than 32 cfs per acre for more than 4.5 af per acre for irrigation of the lands above.~~

SR5 Right No. 63-8087

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:

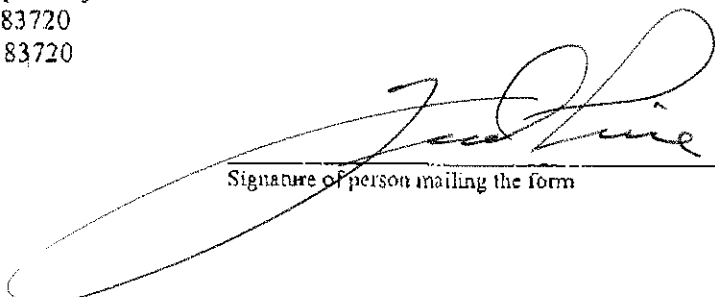
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

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