

COPY

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

2007 MAY 22 AM 10 12

**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. 21-4170
	)	
Case No. 39576	)	
	)	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)/OBJECTOR(s):

James F. Hagenbarth
David J. Hagenbarth

James F. Hagenbarth 5-9-07
James F. Hagenbarth Date

David J. Hagenbarth 5-9-07
David J. Hagenbarth Date

IDWR Concurrence:

Ernest Carlsen 4-19-2007
Ernest Carlsen Date
Water Resource Program Manager

Nicholas B. Spencer 5-17-07
Nicholas B. Spencer Date
Deputy Attorney General

CERTIFICATE OF MAILING

I certify that on May 21, 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:

David J. Hagenbarth
PO Box 1128
Dillon, MT 59725

John M. Marshall, Esq.
Givens Pursley LLP
601 W. Bannock Street
Boise, ID 83702

IDWR Repository
P O. Box 83720
Boise, ID 83720



Signature of person mailing the form

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

RIGHT NUMBER: 21-4170

NAME AND ADDRESS:

DAVID J HAGENBARTH
PO BOX 1128
DILLON MT 59725-1128

~~JAMES E. HAGENBARTH~~
PO BOX 1128
DILLON MT 59725-1128

SOURCE:

Source:
SPRING

Tributary:
SINKS

EMC NBS

QUANTITY:

0.500 CFS

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

PRIORITY DATE:

05/01/1894

06/02/1906

POINT OF DIVERSION:

~~T13N R40E S10 NESESW~~
~~Within CLARK County~~
~~T13N R40E S10 NENESE~~
~~Within CLARK County~~

T13N R40E S10 NWNESE
Within CLARK County

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

IRRIGATION

05/01 10/31

0.500 CFS

STOCKWATER

04/01 12/31

0.230 CFS

PLACE OF USE:

IRRIGATION

within CLARK County

T13N R40E S10 SESW 25.0
T13N R40E S10 NESE 28.0
T13N R40E S10 NWSE 12.0
T13N R40E S10 SWSE 36.0
T13N R40E S10 SESE 40.0
T13N R40E S11 NESW 40.0
T13N R40E S11 NWSW 27.0
T13N R40E S11 SWSW 40.0
T13N R40E S11 SESW 40.0
T13N R40E S11 NESE 40.0
T13N R40E S11 NWSE 40.0
T13N R40E S11 SWSE 40.0
T13N R40E S11 SESE 39.0

~~T13N R40E S12 SWNW 0.2~~

T13N R40E S12 NESW 7.4
T13N R40E S12 NWSW 40.0
T13N R40E S12 SWSW 16.0
T13N R40E S14 NENE 9.7

T13N R40E S14 NWNE 19.0
T13N R40E S14 NENW 21.0
T13N R40E S14 NWNW 9.8
T13N R40E S15 NENE 40.0
T13N R40E S15 NWNE 40.0

~~T13N R40E S15 SENE 0.1~~

T13N R41E S07 Lot 2 SWNW 19.0
STOCKWATER within CLARK County

T13N R40E S10 NESE

T13N R40E S11 NWSW

T13N R40E S11 SWSW

T13N R40E S11 SESW

T13N R40E S11 NESE

T13N R40E S11 SWSE

T13N R40E S11 SESE

T13N R40E S12 NWSW

*ENC
NBS*

668.9 ACRES TOTAL

~~669.2 ACRES TOTAL~~

The rights listed below are limited to the irrigation of a combined total of 668.9 acres in a single irrigation season. Combined Right Nos.: 21-2054B, 21-4170, 21-4171, 21-4172, 21-4173, 21-4174, 21-4175, 21-12854, 21-12939, 31-2274, 31-2275, 31-10245, 31-10740

~~The rights listed below are limited to the irrigation of a combined total of 669.2 acres in a single irrigation season. Combined Right Nos.: 21-2054B, 21-4170, 21-4171, 21-4172, 21-4173, 21-4174, 21-4175, 21-12854, 21-12939, 31-2274, 31-2275, 31-10245, 31-10740~~

This right is limited to the irrigation of 241 acres within the place of use described above in a single irrigation season.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use