**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. 22-7313B** |
| | ) | |
| **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:**
Val E. Schwendiman Farms, Inc.

Jerry R. Rigby 5-15-07

Jerry R. Rigby Date
Attorney for Claimant

**OBJECTOR(s):**

5/22/07

Larry A. Brown, USDOJ Date
Attorney for BLM

5/22/07

David W. Gehlert, USDOJ Date
Attorney for BOR

**IDWR Concurrence:**

March 13, 2007

Ernest Carlsen Date
Water Resources Program Manager

3/14/07

Chris M. Bromley Date
Deputy Attorney General
Attorney for IDWR

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

RIGHT NUMBER: 22-7313B

NAME AND ADDRESS:

VAL E SCHWENDIMAN FARMS INC
9633 E HWY 33
NEWDALE ID 83436

SOURCE: Source: Tributary:

GROUND WATER

EMC
CB DL

QUANTITY: 3.630 CFS

1,313.880 AFY

Use of this right with Right Nos. 22-7210, 22-7271, 22-7313A, and 22-7313B is limited to a total combined diversion rate of 28.1 cfs and to a total combined annual diversion volume of 11,476.5 AF.

The combined rights listed above with Right No 22-7287 and 22-12656 are limited to a total combined diversion rate of 33.22 cfs and to a total annual diversion volume of 13,607.3 AF.

The rights listed below are limited to a total combined diversion rate of 56.36 cfs.
Combined Right Nos.: 22-7205, 22-7210, 22-7265A, 22-7265B, 22-7313A, 22-7313B, and 22-7314.

~~The combined rights listed above with Right No 22-7287 and 22-12656 are limited to a total combined diversion rate of 33.22 cfs and to a total annual diversion volume of 13,767.25 AF.~~

PRIORITY DATE: 01/15/1980

POINT OF DIVERSION:

T07N R41E S29 SESWNE
Within FREMONT County

T07N R41E S29 NWNESE Injection
Within FREMONT County

T07N R42E S23 SENWSE Rediversion
Within FREMONT County

Water diverted under this right is exchanged by injecting water diverted under this right into Teton River at the points of injection described above, and diverting an equal amount from Teton River at the point of rediversion described above.
Three exchange wells are located at or near the point of diversion described above.

PURPOSE AND PERIOD OF USE:

| Purpose of use | Period of use: | Quantity: |
|---|---|---|
| IRRIGATION | 04/15 10/15 | 3.630 CFS 1,313.88 AFY |

The use of water for irrigation under this right may begin as early as April 1 and may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water before April 15 and after October 15 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.

PLACE OF USE: IRRIGATION within MADISON County

T06N R42E S02 Lot 1 NENE 39.0
T06N R42E S02 Lot 2 NWNE 39.0
T06N R42E S02 SWNE 39.0
T06N R42E S02 SENE 39.0
T06N R42E S02 Lot 3 NENW 39.0
T06N R42E S02 Lot 4 NWNW 39.0
T06N R42E S02 SWNW 39.0

| | |
|---|---|
| T06N R42E S02 SENW 39.0 | |
| T06N R42E S02 NESW 39.0 | |
| T06N R42E S02 NWSW 39.0 | |
| T06N R42E S02 SWSW 39.0 | |
| T06N R42E S02 SESW 39.0 | |
| T06N R42E S02 NESE 39.0 | |
| T06N R42E S02 NWSE 39.0 | |
| T06N R42E S02 SWSE 39.0 | |
| T06N R42E S02 SESE 39.0 | |
| T06N R42E S10 NENE 40.0 | |
| T06N R42E S10 NWNE 40.0 | |
| T06N R42E S10 SWNE 36.0 | ~~T06N R42E S10 SWNE 35.0~~ |
| T06N R42E S10 SENE 31.0 | |
| T06N R42E S10 NESW 40.0 | |
| T06N R42E S10 NWSW 40.0 | |
| T06N R42E S10 NESE 40.0 | |
| T06N R42E S10 NWSE 40.0 | |
| T06N R42E S11 NENE 39.0 | |
| T06N R42E S11 NWNE 39.0 | |
| T06N R42E S11 SWNE 39.0 | |
| T06N R42E S11 NENW 39.0 | |
| T06N R42E S11 NWNW 39.0 | |
| T06N R42E S11 SWNW 39.0 | |
| T06N R42E S11 SENW 39.0 | |
| | ~~T07N R42E S15 SWSW 1.2~~ |
| T07N R42E S21 NENE 7.0 | ~~T07N R42E S21 NENE 11.0~~ |
| T07N R42E S21 SENE 32.0 | ~~T07N R42E S21 SENE 34.0~~ |
| T07N R42E S21 NESE 38.0 | |
| T07N R42E S22 NENE 14.0 | ~~T07N R42E S22 NENE 20.0~~ |
| T07N R42E S22 NWNE 14.0 | ~~T07N R42E S22 NWNE 17.0~~ |
| T07N R42E S22 SWNE 4.2 | |
| T07N R42E S22 SWNE 35.0 | |
| T07N R42E S22 SENE 30.0 | |
| T07N R42E S22 SENE 9.2 | ~~T07N R42E S22 SENE 9.3~~ |
| T07N R42E S22 NENW 31.0 | ~~T07N R42E S22 NENW 34.0~~ |
| T07N R42E S22 NWNW 31.0 | ~~T07N R42E S22 NWNW 34.0~~ |
| T07N R42E S22 SWNW 20.0 | |
| T07N R42E S22 SWNW 20.0 | |
| T07N R42E S22 SENW 40.0 | |
| T07N R42E S22 NESW 17.0 | |
| T07N R42E S22 NWSW 36.0 | |
| T07N R42E S22 NESE 39.0 | |
| T07N R42E S22 NWSE 39.0 | |
| T07N R42E S23 NWNW 2.8 | ~~T07N R42E S23 NWNW 3.9~~ |
| T07N R42E S23 SWNW 29.0 | ~~T07N R42E S23 SWNW 31.0~~ |
| T07N R42E S23 SENW 3.1 | ~~T07N R42E S23 SENW 4.5~~ |
| T07N R42E S23 NESW 13.0 | ~~T07N R42E S23 NESW 15.0~~ |

EMC
CB
DL

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|---|---|
| T07N R42E S23 NESW 11.0 | |
| T07N R42E S23 NWSW 0.2 | |
| T07N R42E S23 NWSW 39.0 | |
| T07N R42E S23 SWSW 40.0 | |
| T07N R42E S23 SESW 3.0 | ~~T07N R42E S23 SESW 3.4~~ |
| T07N R42E S23 SESW 35.0 | |
| T07N R42E S23 SWSE 12.0 | ~~T07N R42E S23 SWSE 14.0~~ |
| T07N R42E S26 NWNE 15.0 | ~~T07N R42E S26 NWNE 16.0~~ |
| T07N R42E S26 NWNE 8.3 | |
| T07N R42E S26 SWNE 14.0 | ~~T07N R42E S26 SWNE 15.0~~ |
| T07N R42E S26 SWNE 21.0 | |
| T07N R42E S26 SENE 2.2 | ~~T07N R42E S26 SENE 2.9~~ |
| T07N R42E S26 NENW 40.0 | EMC |
| T07N R42E S26 NWNW 40.0 | CB |
| T07N R42E S26 SWNW 40.0 | |
| T07N R42E S26 SENW 40.0 | |
| T07N R42E S26 NESW 27.0 | |
| T07N R42E S26 NESW 9.3 | ~~T07N R42E S26 NESW 9.8~~ |
| T07N R42E S26 NWSW 40.0 | |
| T07N R42E S26 SWSW 40.0 | |
| T07N R42E S26 SESW 20.0 | ~~T07N R42E S26 SESW 19.0~~ |
| T07N R42E S26 SESW 20.0 | |
| T07N R42E S26 NESE 1.6 | |
| T07N R42E S26 NWSE 12.0 | ~~T07N R42E S26 NWSE 13.0~~ |
| T07N R42E S26 NWSE 0.8 | |
| T07N R42E S26 SWSE 7.1 | ~~T07N R42E S26 SWSE 0.2~~ |
| | ~~T07N R42E S26 SWSE 8.1~~ |
| T07N R42E S27 NENE 40.0 | |
| T07N R42E S27 NWNE 40.0 | |
| T07N R42E S27 SWNE 40.0 | |
| T07N R42E S27 SENE 40.0 | |
| T07N R42E S27 NENW 40.0 | |
| T07N R42E S27 NWNW 40.0 | |
| T07N R42E S27 SWNW 40.0 | |
| T07N R42E S27 SENW 40.0 | |
| T07N R42E S27 NESW 40.0 | |
| T07N R42E S27 NWSW 40.0 | |
| T07N R42E S27 SWSW 40.0 | |
| T07N R42E S27 SESW 40.0 | |
| T07N R42E S27 NESE 40.0 | |
| T07N R42E S27 NWSE 40.0 | |
| T07N R42E S27 SWSE 40.0 | |
| T07N R42E S27 SESE 40.0 | |
| T07N R42E S28 NENE 38.0 | |
| T07N R42E S28 SWNE 40.0 | |
| T07N R42E S28 SENE 40.0 | |
| T07N R42E S28 SWSW 40.0 | |
| T07N R42E S28 SESW 40.0 | |
| T07N R42E S28 NESE 40.0 | |

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|---|---|
| T07N R42E S28 NWSE 40.0 | |
| T07N R42E S28 SWSE 40.0 | |
| T07N R42E S28 SESE 40.0 | |
| T07N R42E S33 NENW 40.0 | |
| T07N R42E S35 NWNE 27.0 | ~~T07N R42E S35 NWNE 0.2~~ |
| | ~~T07N R42E S35 NWNE 31.9~~ |
| T07N R42E S35 SWNE 39.0 | |
| T07N R42E S35 SENE 16.0 | ~~T07N R42E S35 SENE 0.6~~ |
| | ~~T07N R42E S35 SENE 21.0~~ |
| T07N R42E S35 NENW 40.0 | |
| T07N R42E S35 NWNW 40.0 | |
| T07N R42E S35 SWNW 40.0 | |
| T07N R42E S35 SENW 39.0 | |
| T07N R42E S35 NESW 39.0 | |
| T07N R42E S35 NWSW 39.0 | |
| T07N R42E S35 SWSW 39.0 | |
| T07N R42E S35 SESW 39.0 | |
| T07N R42E S35 NESE 38.0 | |
| T07N R42E S35 NWSE 39.0 | |
| T07N R42E S35 SWSE 39.0 | |
| T07N R42E S35 SESE 39.0 | |
| T07N R42E S36 NWSW 12.0 | ~~T07N R42E S36 NWSW 14.0~~ |
| T07N R42E S36 SWSW 39.0 | |
| 3887.8 ACRES TOTAL | ~~3934.2 ACRES TOTAL~~ |

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This right is limited to the irrigation of 2560 acres within the place of use described above in a single irrigation season.

Right Nos. 22-7210, 22-7271, 22-7287, 22-7313A, 22-7313B, and 22-12656 are limited to the irrigation of a combined total of 3,887.5 acres in a single irrigation season.

~~Right Nos. 22-7210, 22-7271, 22-7287, 22-7313A, 22-7313B, and 22-12656 are limited to the irrigation of a combined total of 3,933.5 acres in a single irrigation season.~~

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

No demand on upstream prior rights or existing prior exchanges can be made and no interference with prior rights located between the rediversion pump and the exchange wells will be allowed even if the exchange wells are pumping water into the Teton River.

The exchange wells must inject water into the Teton River whenever water is being diverted from the river under this water right ~~license~~, and the injection must continue after the diversion from the Teton River ceases until the water not diverted reaches the point of injection.

The rate of diversion from the Teton River shall not exceed the rate of injection into the Teton River from the exchange wells.

This right is subject to regulation by the watermaster of Water District No 01.

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 - License

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

Right Nos. 22-7205, 22-7210, 22-7265A, 22-7265B, 22-7313A, 22-7313B, and 22-7314 are also diverted through points of diversion and injection described above.

Right Nos. 22-7210, 22-7270, 22-7313A, and 22-7313B are also diverted through point of rediversion described above.

Exchange well diversion capacity is owned half by Schwendiman Farms and half by M & B Enterprises for a total capacity of 56.36 cfs.

EMC
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02/24/2006
IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER:

NAME AND ADDRESS:

22-7313B

VAL E SCHWENDIMAN FARMS INC
9633 E HWY 33 NEWDALE ID 83436

SOURCE: QUANTITY:

GROUND WATER

3.630 CFS
1,313.88 AFY
TRIBUTARY:
The rights listed below are limited to a total combined diversion rate of 56.36 cfs.
Combined Right Nos.: 22-7205, 22-7210, 22-7265A, 22-7265B,
22-7313A, 22-7313B, and 22-7314.
Use of this right with Right Nos. 22-7210, 22-7271, 22-7313A, and 22-7313B is limited to a total combined diversion rate of 28.1 cfs and to a total combined annual diversion volume of 11,476.5 AF.
The combined rights listed above with Right No 22-7287 and 22-12656 are limited to a total combined diversion rate of 33.22 cfs and to a total annual diversion volume of 13,767.25 AF.

PRIORITY DATE:

POINT OF
DIVERSION:
01/15/1980

T07N R41E S29 SESWNE Within FREMONT County

T07N R41E S29 NWNESE Injection Within FREMONT County T07N R42E S23

SENWSE Rediversion Within FREMONT County

Water diverted under this right is exchanged by injecting water diverted
under this right into Teton River at the points of injection described above, and
diverting an equal amount from Teton River at the point of rediversion described above.
Three exchange wells are located at or near the point of diversion described above.
PURPOSE AND PERIOD OF USE:

PURPOSE OF USE IRRIGATION

QUANTITY
3.630 CFS
1,313.88 AFY

The use of water for irrigation under this right may begin as early as April 1 and may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water before April 15 and after October 15 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.

PERIOD OF USE
04/15 10/15
PLACE OF USE: IRRIGATION Within MADISON County

| | | | | | |
|---|---|---|---|---|---|
| T06N R42E S02 Lot | 1 NENE | 39.00 | T06N R42E S02 Lot | 2 NWNE | 39.00 |
| T06N R42E S02 | SWNE | 39.00 | T06N R42E S02 | SENE | 39.00 |
| T06N R42E S02 Lot | 3 NENW | 39.00 | T06N R42E S02 Lot | 4 NWNW | 39.00 |
| T06N R42E S02 | SWNW | 39.00 | T06N R42E S02 | SENW | 39.00 |
| T06N R42E S02 | NESW | 39.00 | T06N R42E S02 | NWSW | 39.00 |
| T06N R42E S02 | SWSW | 39.00 | T06N R42E S02 | SESW | 39.00 |
| T06N R42E S02 | NESE | 39.00 | T06N R42E S02 | NWSE | 39.00 |



| | | | | | |
|---|---|---|---|---|---|
| T06N R42E S02 | SWSE | 39.00 | T06N R42E S02 | SESE | 39.00 |
| T06N R42E S10 | NENE | 40.00 | T06N R42E S10 | NWNE | 40.00 |
| T06N R42E S10 | SWNE | 35.00 | T06N R42E S10 | SENE | 31.00 |
| T06N R42E S10 | NESW | 40.00 | T06N R42E S10 | NWSW | 40.00 |
| T06N R42E S10 | NESE | 40.00 | T06N R42E S10 | NWSE | 40.00 |
| T06N R42E S11 | NENE | 39.00 | T06N R42E S11 | NWNE | 39.00 |
| T06N R42E S11 | SWNE | 39.00 | T06N R42E S11 | NENW | 39.00 |
| T06N R42E S11 | NWNW | 39.00 | T06N R42E S11 | SWNW | 39.00 |
| T06N R42E S11 | SENW | 39.00 | T07N R42E S15 | SWSW | 0.20 ~~1.20~~ |
| T07N R42E S21 | NENE | 7.70 ~~11.00~~ | T07N R42E S21 | SENE | 32.80 ~~34.00~~ |
| T07N R42E S21 | NESE | 38.00 | T07N R42E S22 | NENE | 14.50 ~~20.00~~ |
| T07N R42E S21 | NESE | 19.70 ~~14.20~~ | T07N R42E S22 | SWNE | 4.30 |

| | | | | | |
|---|---|---|---|---|---|
| T07N R42E S23 | NWNW | 2.60 ~~3.90~~ | T07N R42E S23 | SWNW | 5.90 |
| | | | T07N R42E S23 | SWNW | 22.60 ~~31.00~~ |
| T07N R42E S23 | SENW | 3.00 ~~4.50~~ | T07N R42E S23 | NESW | 13.10 ~~15.00~~ |
| T07N R42E S23 | NESW | 10.60 ~~11.00~~ | T07N R42E S23 | NWSW | 0.20 |
| T07N R42E S23 | NWSW | 39.00 | T07N R42E S23 | SWSW | 40.00 |
| T07N R42E S23 | SESW | 3.00 ~~3.40~~ | T07N R42E S23 | SESW | 35.00 |
| T07N R42E S23 | SWSE | 12.50 ~~14.00~~ | T07N R42E S26 | NWNE | 15.60 ~~16.00~~ |
| T07N R42E S26 | NWNE | 8.30 | T07N R42E S26 | SWNE | 14.60 ~~15.00~~ |
| T07N R42E S26 | SWNE | 21.00 | T07N R42E S26 | SENE | 2.20 ~~2.90~~ |
| T07N R42E S26 | NENW | 40.00 | T07N R42E S26 | NWNW | 40.00 |
| T07N R42E S26 | SWNW | 40.00 | T07N R42E S26 | SENW | 40.00 |
| T07N R42E S26 | NESW | 27.00 | T07N R42E S26 | NESW | 9.30 ~~9.80~~ |
| T07N R42E S26 | NWSW | 40.00 | T07N R42E S26 | SWSW | 40.00 |
| T07N R42E S26 | SESW | 19.00 | T07N R42E S26 | SESW | 19.70 ~~20.50~~ |
| T07N R42E S26 | NESE | 1.60 | T07N R42E S26 | NWSE | 12.10 ~~13.00~~ |
| T07N R42E S26 | NWSE | 0.80 | ~~T07N R42E S26~~ | ~~SWSE~~ | ~~0.20~~ |
| T07N R42E S26 | SWSE | 7.30 ~~8.10~~ | T07N R42E S27 | NENE | 40.00 |
| T07N R42E S27 | NWNE | 40.00 | T07N R42E S27 | SWNE | 40.00 |
| T07N R42E S27 | SENE | 40.00 | T07N R42E S27 | NENW | 40.00 |
| T07N R42E S27 | NWNW | 40.00 | T07N R42E S27 | SWNW | 40.00 |
| T07N R42E S27 | SENW | 40.00 | T07N R42E S27 | NESW | 40.00 |
| T07N R42E S27 | NWSW | 40.00 | T07N R42E S27 | SWSW | 40.00 |
| T07N R42E S27 | SESW | 40.00 | T07N R42E S27 | NESE | 40.00 |
| T07N R42E S27 | NWSE | 40.00 | T07N R42E S27 | SWSE | 40.00 |
| T07N R42E S27 | SESE | 40.00 | T07N R42E S28 | NENE | 38.00 |
| T07N R42E S2S | SWNE | 40.00 | T07N R42E S28 | SENE | 40.00 |
| T07N R42E S28 | SWSW | 40.00 | T07N R42E S28 | SESW | 40.00 |
| T07N R42E S28 | NESE | 40.00 | T07N R42E 828 | NWSE | 40.00 |
| T07N R42E S28 | SWSE | 40.00 | T07N R42E S28 | SESE | 40.00 |
| T07N R42E S33 | NENW | 40.00 | T07N R42E S35 | NWNE | 1.30 ~~0.20~~ |
| T07N R42E S35 | NWNE | 25.60 ~~31.00~~ | T07N R42E S35 | SWNE | 39.00 |


This right is limited to the irrigation of ~~2560~~ acres within the place of use described above in a single irrigation season.
The rate of diversion from the Teton River shall not exceed the rate of injection into the Teton River from the exchange wells.
The exchange wells must inject water into the Teton River whenever water is being diverted from the river under this license, and the injection must continue after the diversion from the Teton River ceases until the water not diverted reaches the point of injection.
No demand on upstream prior rights or existing prior exchanges can be made and no interference with prior rights located between the rediversion pump and the exchange wells will be allowed even if the exchange wells are pumping water into the Teton River.
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.
Totalizing measuring devices shall be maintained at the exchange wells and rediversion pumps from the Teton River.
EXPLANATORY MATERIAL: BASIS OF CLAIM - License

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

This right is subject to regulation by the watermaster of Water District No 01.

| | | | | | |
|---|---|---|---|---|---|
| T07N R42E S35 | SENE | 3.00 ~~0.60~~ | T07N R42E S35 | SENE | 13.00 ~~21.00~~ |
| T07N R42E S35 | NENW | 40.00 | T07N R42E S35 | NWNW | 40.00 |
| T07N R42E S35 | SWNW | 40.00 | T07N R42E S35 | SENW | 39.00 |
| T07N R42E S35 | NESW | 39.00 | T07N R42E S35 | NWSW | 39.00 |
| T07N R42E S35 | SWSW | 39.00 | T07N R42E S35 | SESW | 39.00 |
| T07N R42E S35 | NESE | 1.90 | T07N R42E S35 | NWSE | 39.00 |

## 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:

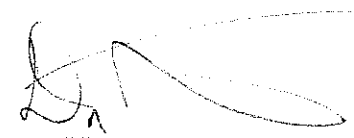
CLERK OF THE DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
253 THIRD AVENUE NORTH
P. O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

2. Copies to:

VAL E SCHWENDIMAN FARMS INC
Represented by:
JERRY R. RIGBY
25 N 2ND E
PO BOX 250
REXBURG, ID 83440-0250

UNITED STATES OF AMERICA
USDI BUREAU OF RECLAMATION
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098



Signature of person or attorney mailing the form