

Parties' Names: Harold and Evea Powers

Attorney Name & Address:

William G. Myers III
HOLLAND & HART LLP
Suite 1400, U.S. Bank Plaza
101 S. Capitol Boulevard
Post Office Box 2527
Boise, Idaho 83701
Telephone: (208) 342-5000
Facsimile: (208) 343-8869
Idaho State Bar No. 5598

Additional counsel listed on signature page

**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 Nos. 69-4103A, 69-4103B, 69-
) 4104A, 69-4104B, 69-4122
)

) **MOTION IN SUPPORT OF**
) **SETTLEMENT AGREEMENT**
)

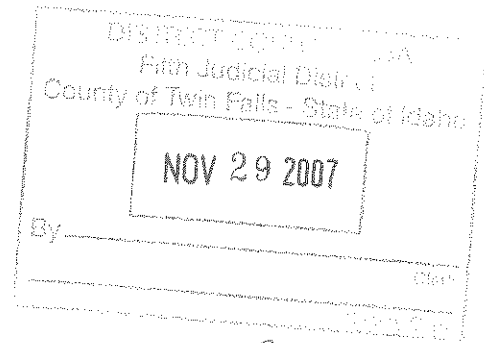
This motion is filed by Harold A. Powers and Evea H. Powers (69-4103A, 4104A), Jack Rubelt and Ava E. Rubelt (69-4122), and Moonshine Ventures, LLC (69-4103B, 4104B), as the water right claimants for the above-referenced water rights (hereinafter "the Parties").

In support of their Motion, the Parties state as follows:

1. The Parties recently entered into a Settlement Agreement ("Agreement") to resolve all disputes related to their water rights in the above referenced subcases. A copy of the Agreement is attached hereto as Exhibit 1.

2. Pursuant to paragraph 1 of the Agreement, the Parties agreed to jointly file this motion seeking an order of this Court that will:

MOTION IN SUPPORT OF SETTLEMENT AGREEMENT – 1



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DEPARTMENT OF
WATER RESOURCES

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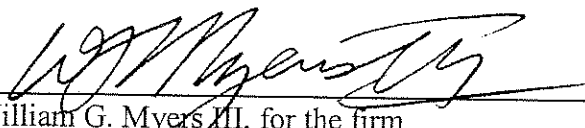
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- a. Partially decree the subcases according to the recommendations in the Director's Report as modified by and subject to the terms of the Agreement, pending the final decree in Case No. 39576. The original Director's Report has been modified pursuant to the Agreement as evidenced by the stipulated elements of the water rights (Standard Form 5) filed for each of the above-referenced subcases and attached hereto collectively as Exhibit 2.
- b. Approve the Agreement.
- c. Dismiss all pending motions and objections in the above-referenced subcases as moot, and
- d. Retain jurisdiction for purposes of disputes regarding the partial decrees and the implementation and enforcement of the Agreement.
- e. Bar the Parties from raising any potential or future claims regarding these subcases other than enforcement of the Agreement and the partial decrees.

Wherefore, the parties respectfully move this Court for an order consistent with this motion and in a form substantially similar to the proposed order attached as Exhibit 3.

DATED this 26th day of November 2007.

HOLLAND & HART LLP

By 
William G. Myers III, for the firm
Attorneys for Harold and Eeva Powers

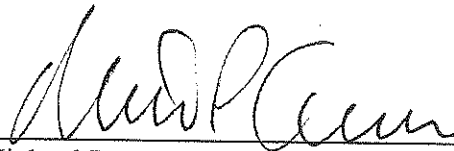
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DATED this 21st day of November 2007.

GIVENS PURSLEY, LLP

By



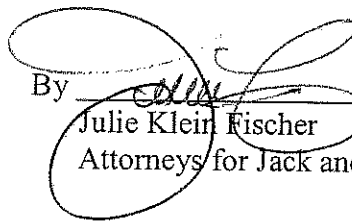
Michael P. Lawrence

Attorneys for Moonshine Ventures, LLC

DATED this 28 day of November 2007.

WHITE PETERSON, PA

By



Julie Klein Fischer

Attorneys for Jack and Ava E. Rubelt

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CERTIFICATE OF SERVICE

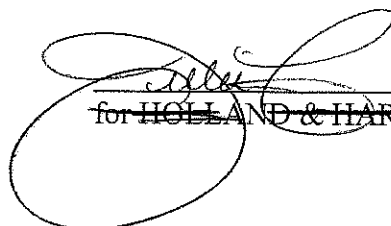
I hereby certify that on this 28 day of November 2007, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Chris M. Bromley
Deputy Attorney General
332 E. Front St.
P.O. Box 83720
Boise, ID 83720-0098

☐	U.S. Mail
☒	Hand Delivered
☐	Overnight Mail
☐	Telecopy (Fax)

IDWR
Document Depository
P.O. Box 83720
Boise, ID 83720-0098

☒	U.S. Mail
☐	Hand Delivered
☐	Overnight Mail
☐	Telecopy (Fax)


for ~~HOLLAND & HART LLP~~ White Peterson

3772392_1.DOC

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EXHIBIT “1”

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Instrument # 115466

COUNCIL, ADAMS, IDAHO

2007-10-30

02:21:44 No. of Pages: 22

Recorded for : HAROLD POWERS

SHERRY WARD

Fee: 66.00

Ex-Officio Recorder Deputy

Index to: AGREEMENT

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 Nos. 69-4103A, 69-4103B,
) 69-4104A, 69-4104B, 69-4122
)

) SETTLEMENT AGREEMENT
)
)
)

This Settlement Agreement ("Agreement") is entered into among Harold A. Powers and Evea H. Powers ("Powerses"), Jack Rubelt and Ava E. Rubelt ("Rubelts"), and Moonshine Ventures, LLC, ("Moonshine Ventures"), as the successor to the interests in this matter of Douglas M. Scism and Charleta A. Scism. The parties jointly are referred as "the Parties" and severally as the "Party" or by name.

For, and in consideration of, the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

RECITALS

A. The Idaho Department of Water Resources ("IDWR") has recommended certain water rights in the Director's Report for Basin 69, said Report having been submitted to this Court in the above-captioned case. The water rights at issue in the above-captioned subcases that are the subject of this Agreement are numbered and in the Parties' names as follows:

69-4103A	Powerses
69-4104A	Powerses
69-4103B	Moonshine Ventures
69-4104B	Moonshine Ventures
69-4122	Rubelts

Attached as Exhibit 1 to this Agreement are the sections of the Director's Report describing the Director's original recommendations for these water rights.

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B. In these subcases:

1. The Powerses have filed Standard Form 1 objections to IDWR's recommendations as listed in the Director's Report for the Moonshine Ventures' Water Rights Nos. 69-4103B and 69-4104B.

2. The Powerses have filed a Standard Form 1 objection to IDWR's recommendation as listed in the Director's Report for the Rubelts' Water Right No. 69-4122. Moonshine Ventures has filed a Standard Form 2 response to the Powerses' objections to this same water right.

3. Moonshine Ventures has filed motions, as amended, to file late objections to IDWR's recommendations as listed in the Director's Report for the Powerses' Water Rights Nos. 69-4103A and 69-4104A.

These objections, response and motions are currently pending in these subcases.

C. The Parties have met to discuss their differences and wish to resolve all pending, potential and future claims related to these water rights that have been or could be asserted in the SRBA by any of them against the others and to obtain partial decrees of these rights consistent with this Agreement. Said resolution will result in revising the Directors' original recommendations described in Exhibit 1.

D. The Parties acknowledge that they have historically used water under their respective water rights in cooperation with the other Parties. This Agreement will foster cooperation among the Parties so as to optimize the beneficial uses the Parties may make of the water consistent with their water right decrees and terms herein.

AGREEMENT

1. Court Approval

Within 30 days of the effective date of this Agreement, the Parties will jointly file a motion with the District Court in the above-captioned subcases seeking an order of the District Court that (a) partially decrees the subcases according to the recommendations in the Director's Report as modified by and subject to the terms of this Agreement, pending the final decree in Case No. 39576, (b) approves this Agreement, (c) dismisses all pending motions and objections as moot, and (d) retains jurisdiction for purposes set forth in paragraph 4(b), below, both as to disputes regarding the partial decrees and the implementation and enforcement of this Agreement. The Parties hereby waive any potential or future claims regarding these subcases, other than enforcement of this Agreement and the partial decrees. Upon entry of the Court's order, the Parties agree that their water rights shall be administered in compliance with their respective partial decrees.

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2. Priority Dates

The priority dates set forth in the existing Director's Report recommendation, Exhibit 1, for the five subcases at issue in this matter shall be amended as necessary to reflect the following:

Water Right No. and Party		Priority Date
69-4103A	Powerses	April 1, 1888
69-4104A	Powerses	April 1, 1888
69-4122	Rubelts	May 6, 1901
69-4103B	Moonshine Ventures	April 1, 1955
69-4104B	Moonshine Ventures	April 1, 1955

3. Crooked River and Moonshine Creek Points of Diversion, Water Flow Measurement, and Water Flow Control

In order to distribute, measure, and control the water diverted from the Crooked River and Moonshine Creek, the Parties agree:

a. Points of Diversion

For illustrative purposes only, two maps are attached as Exhibits 2 and 3 depicting the approximate points of diversion for the above-referenced water rights on Crooked River and Moonshine Creek as agreed to by the Parties in this Agreement.

As illustrated on Exhibit 2, the Powerses will maintain a point of diversion at the head of Clifton Ditch where it departs from the Crooked River. Moonshine Ventures's recommended water right for Right No. 69-4103B shall be amended to delete one point of diversion in T18N R03W S15 NE1/4 NE1/4 within Adams County. Moonshine Ventures will construct a new single point of diversion on the Crooked River at or near the point illustrated on Exhibit 2 as "Moonshine Ventures Crooked River pod (approx.)." Moonshine Ventures will construct its point of diversion upstream from the Powerses point of diversion at the head of the Clifton Ditch, and at least 20 feet below Rubelts' farthest upstream point of diversion on the Crooked River. If, in complying with these provisions, Moonshine Ventures's point of diversion is located in T18N R03W S15 NW1/4 NE1/4 (rather than in the NE1/4 NE1/4), the Parties agree to not oppose Moonshine Ventures's efforts to amend its decreed water right accordingly.

Rubelts shall retain their four points of diversion as stated on the Director's Report for Water Right No. 69-4122 and as depicted on Exhibit 2. Powerses shall retain their two points of diversion in Section 11 as noted on the Director's Report for Water Right No. 69-4103A and as depicted on Exhibit 2. The Powerses shall also retain their single point of diversion on Moonshine Creek as noted in the Director's Report for Water Right No. 69-4104A and as depicted on Exhibit 3. Moonshine Ventures shall retain its two points of diversion on Moonshine Creek as noted on the Director's Report for Water Right No. 69-4104B and as depicted on Exhibit 3.

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b. Water Flow Measuring Devices

Each Party shall install and maintain a water flow measuring device at or near each of their respective decreed points of diversion. These devices shall be a weir, homemade or otherwise, or any other standard type device acceptable to IDWR, that accurately measures the rate of water flow. The devices will be installed according to the design requirements for the particular device used, if any. Those design requirements and specifications will be made available promptly to any Party upon request. The measuring devices shall be installed in a position and manner that will permit inspection and verification of the flow rate by any Party and prevent incoming water from bypassing the measuring device during the water rights' period of use set forth in the partial decrees. The measuring devices are intended to measure the water flow and not to control the rate of the water flow, although a measuring device and flow control device could be constructed and operated as a single device.

c. Water Flow Control Devices

Moonshine Ventures and the Powerses will each install a separate water flow control device to divert water at their respective points of diversion on Crooked River in Section 15. The Powerses' Section 15 device will divert their water down the Clifton Ditch. Moonshine Ventures's device will divert its water into a pipe or lateral ditch that will connect to Moonshine Ventures's currently existing gated pipe and lateral at points off of and away from the Clifton Ditch. Any expense incurred by Moonshine Ventures to connect its headgate at the Crooked River point of diversion to its existing gated pipe or lateral ditch shall be borne solely by Moonshine Ventures. Within five days following the installation of its device, Moonshine Ventures shall, at its own expense, permanently discontinue use of its two existing diversions from Clifton Ditch and shall restore the Clifton Ditch bank so that water continues to flow down the ditch and not into the gated pipe or the lateral ditch.

Each Party shall control the water level, or "head," at each of their respective decreed points of diversion so as to maximize the water available to satisfy all water rights as partially decreed. Each Party shall use a water flow control device appropriate and efficient for each particular point of diversion. A device may be informal, such as rocks, brush, boards, or plastic, or formal, such as a constructed headgate. Given the potential proximity of the Powerses' and Moonshine Ventures's points of diversion at or near the head of Clifton Ditch, the Powerses and Moonshine Ventures will exchange plans for installation of each Party's device prior to installation to ensure that the devices will function in a mutually compatible manner.

The water flow rate shall be controlled so that the quantity of water diverted by any Party during a decreed period of use shall not exceed the quantity of water adjudicated by the SRBA Court and stated in their respective partial decrees, whether from a single point of diversion or from all of a Party's points of diversion combined.

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d. Operation and Maintenance

Each Party shall ensure that the water flow measurement and control devices installed at their respective decreed points of diversion are (i) suited for the purposes for which the devices are intended and (ii) installed in compliance with installation specifications, if any. The Parties shall check their devices periodically thereafter, and particularly prior to the annual period of use, for proper operation and maintenance, and repair if necessary.

e. Costs

Each Party, at each of that Party's points of diversion, shall bear the costs of (i) installing water flow measuring and control devices, (ii) operation and maintenance, (iii) repair of any damage to the devices, and/or (iv) other costs necessary to ensure that the devices are functioning properly during the periods of use within the term of the applicable decreed water rights.

f. Timing

Water flow measurement and control devices will be installed as soon as practicable following the execution of this Agreement by all Parties, and not later than June 1, 2008. Installation shall be in compliance with all federal, state, and local laws, regulations, and ordinances.

g. Alteration or Adjustment

For the purposes of this Agreement, a water flow measuring or control device is functioning improperly if it, alone or in conjunction with a Party's other devices and points of diversion, diverts more water than is allowed under the terms of this Agreement and the partial decrees in the above-captioned subcases, or if it disrupts the flow of water so that another Party does not receive the amount of water permitted under their partial decree and the terms of this Agreement.

In the event that a Party discovers that another Party's water flow measuring or control device is functioning improperly, the discovering Party shall notify the other Party by telephone and either obtain permission to fix the malfunction or obtain assurances that the malfunction will be fixed within 24 hours. If the phoned Party does not answer or return the call, the Party discovering the malfunction may fix it and shall notify the other Party afterwards.

If a Party whose device is malfunctioning refuses to give permission to fix it or refuses to arrange to fix it within 24 hours of being notified of the malfunction, such refusal shall constitute a breach of this Agreement.

Each Party is responsible for the actions of its family members, agents, employees, or contractors regarding the terms of this Agreement. Each Party shall notify the other Parties promptly of all persons that have the Party's permission to alter or adjust the Party's water flow measuring or control devices. If any Party authorizes

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any third person to alter or adjust the devices and fails to so notify the other Parties, those other parties may (i) assume that the person(s) altering or adjusting a device is a trespasser and (ii) notify law enforcement authorities accordingly.

h. Access

Each Party shall have reasonable access to each other Party's flow measuring and control devices solely for purposes of inspection and verification of compliance with this Agreement and the partial decrees entered in the above-captioned subcases. This access is not intended to limit any rights available to the Parties under the Idaho Code. This access is not intended to limit any Party's ability to seek enforcement of the Idaho Criminal Code, Title 18, Chapter 43 (Irrigation Works).

If a Party's point of diversion and water conduit is surrounded by the property of another Party, the Party that owns the surrounding property shall provide a right-of-way for all purposes consistent with Idaho Code § 42-1102 (2006).

i. Flow Management Agreement

To alleviate the adverse impacts on any and all of the Parties when the flow of the Crooked River is insufficient to satisfy all of the above-referenced water rights during the decreed period of use, the Parties shall coordinate and confer concerning voluntary adjustments to or reallocation of water flows irrespective of the Parties' partial decrees. The Parties shall discuss practices for equitably distributing water between the Parties, including shared reductions in the quantities of water diverted or any other reasonable alternative proposed by a Party other than rotating periods of water use which the Parties have concluded is unworkable. Each Party shall designate one representative to participate in the coordination and conferences. Any decision to adjust or reallocate water flows shall be made only by agreement of all the Parties and shall be in effect only during the single year period of use during which the agreement is reached. If the Parties' representatives cannot reach agreement, the water shall be allocated according to the partial decrees entered in the above-captioned subcases.

4. Enforcement

a. Administrative Enforcement

(i) Call for Delivery of Water

If, under paragraph 3(i) the Parties are unable to agree on voluntary reallocation of water in dry years, the water shall be distributed in accordance with Idaho law and the partial decrees entered by the Snake River Basin Adjudication ("SRBA") District Court in the above-captioned subcases. If a Party believes that another Party is violating the partial decree(s) by exceeding the quantity of water allowed by the partial decree(s) according to the established priority dates, the harmed Party may file a call for delivery of senior surface water rights with Idaho Department of Water Resources ("IDWR") or an appointed watermaster.

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(ii) Creation of a Water District

The Parties may petition the Director of IDWR to create a water district pursuant to the Idaho Code, including appointment of a watermaster to administer water rights within the district.

b. Judicial Enforcement

Any Party who believes the terms of this Agreement or the partial decrees are being violated may, in addition to administrative enforcement, seek an order from the SRBA District Court compelling compliance and awarding damages, costs, and attorneys' fees. If the SRBA District Court does not retain jurisdiction for these purposes, a Party may seek jurisdiction in the Third Judicial District Court for Adams County for the same purposes.

5. United States Forest Service

In the event that the United States Forest Service takes some action that disrupts the flow or diversion of water pursuant to this Agreement and the partial decrees, the Parties shall cooperate in assessing the situation and determine an appropriate response either informally or as an amendment to this Agreement.

6. Other Provisions

a. Effective Date and Term; Recording

This Agreement shall become effective as of the date of recording in the Adams County real property records, and shall remain in effect until modified or terminated by all Parties in writing. Such modification or termination, if any, shall be effective as of the date of recording in the Adams County real property records. Following recordation, any Party may request IDWR to prepare and file a Standard Form 5 reflecting changes to the Director's Report's recommendations (described in Exhibit 1) brought about by this Agreement regarding Moonshine Ventures's point of diversion (paragraph 3(a), above) and the Parties' priority dates (paragraph 2, above). Once the Director's Report's recommendations have been amended by IDWR, each Party shall sign the Standard Form 5 and initial each page of the amended recommendation for filing in the above-captioned court.

b. Notices

All notices and other communications that are required or permitted to be given to the Parties under this Agreement shall be sufficient in all respects if given in writing and delivered in person, by telecopy, by overnight courier, or by certified mail, postage prepaid, return receipt required, to the receiving Party at the following address:

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If to the Powerses: Harold A. and Evea H. Powers
7680 Appaloosa Lane
Emmett, ID 83617
Telephone: (208) 365-3776

and also to: William G. Myers III
Holland & Hart LLP
101 S. Capitol Blvd., Suite 1400
P.O. Box 2527
Boise, ID 83701
Telephone: (208) 342-5000
Facsimile: (208) 343-8869

If to the Rubelts: Jack and Ava E. Rubelt
2280 Old Hornet Road
Council, ID 83612
Telephone: (208) 253-6963

and also to: Julie Klein Fischer
White Peterson, P.A.
5700 East Franklin Road, Suite 200
Nampa, ID 83687
Telephone: (208) 466-9272
Facsimile: (208) 466-4405

If to Moonshine Ventures: Douglas M. Scism
P.O. Box 44
Council, ID 83612
Telephone: (208) 253-6023

and also to: Michael P. Lawrence
Givens Pursley LLP
601 W. Bannock Street
P.O. Box 2720
Boise, ID 83701
Telephone: (208) 388-1200
Facsimile: (208) 388-1300

If to the IDWR: Michael Ciscell
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720-0098
Boise, ID 83720-0098
Telephone: (208) 287-4915
Facsimile: (208) 287-6700

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and also to:

Chris M. Bromley
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098
Telephone: (208) 287-4809
Facsimile: (208) 267-6700

or to such other address as such Party may have given to the others by notice pursuant to this paragraph. Notice shall be deemed given on the date of delivery, in the case of personal delivery, or telecopy, or on the delivery or refusal date, as specified on the return receipt in the case of certified mail or on the tracking report in the case of overnight courier. This written notice provision does not amend the telephone notice provision in paragraph 3(g) above.

c. Assignment

This Agreement may not be assigned by any Party without the prior written consent of each of the other Parties. Testate or intestate succession of a Party's real property, including water rights, or the sale or other transfer of those property rights shall not be considered an assignment for purposes of this Agreement.

d. Injunctive Relief

No adequate remedy at law may exist for a breach of the terms contained in this Agreement, and any injured Party may suffer irreparable harm as a result of any such breach. Therefore, in the event of a breach or a threatened breach of the terms of this Agreement, in addition to any other rights and remedies the Parties may have, the injured Party shall be entitled to seek specific performance or injunctive relief restraining the breaching Party from doing any act in violation of, or compelling performance of, its obligations herein.

e. Attorneys' Fees

If a Party shall commence any action or proceeding in a court of law against another Party in order to enforce the provisions of this Agreement or the partial decrees or to recover damages as a result of the alleged breach of any of the provisions of this Agreement, the prevailing Party shall be entitled to recover from the other Party all reasonable costs in connection therewith, including reasonable attorneys' fees.

f. Entire Agreement; Amendments

This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof. All prior or contemporaneous agreements, whether written or oral, among themselves or their agents or representatives relating to the subject hereof are superceded by this Agreement. This Agreement may be altered, amended, or

revoked only by an instrument in writing signed by the Parties. Email and all other electronic (including voice) communications from any Party in connection with this Agreement are for informational purposes only. No such communication is intended by any Party to constitute either an electronic record or an electronic signature, or to constitute any agreement by any Party to conduct a transaction by electronic means. Any such intention or agreement is hereby expressly disclaimed.

g. Applicable Law

This Agreement shall be governed by and construed according to the laws of the State of Idaho.

h. Waiver

The failure of one of the Parties to insist upon the strict performance of any provision of this Agreement or to exercise any right, power, or remedy upon a breach thereof shall not constitute a waiver of that or any other provision of this Agreement or limit that Party's right thereafter to enforce any provision or exercise any right.

i. Captions

All captions contained in this Agreement are for convenience only and shall not be deemed to be part of this Agreement.

j. Counterparts

This Agreement may be executed in counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement.

k. Parties Bound by Agreement

This Agreement is binding upon all the Parties hereto and upon their respective heirs, real property successors-in-interest, permitted assigns, employees, agents and contractors.

l. Construction

Exhibits 1, 2, and 3 attached to this Agreement constitute a part of this Agreement as incorporated herein.

m. Authorizations

The signatories represent that they have the power and authority to execute this Agreement and perform the obligations contained herein.

n. No Third Party Beneficiaries

This Agreement is intended to describe the rights and responsibilities of and among the Parties bound by this Agreement, and is not intended to, and shall not be

deemed to confer any rights upon any other persons or entities, nor to limit in any ways the powers and responsibilities of any other entity not a party hereto.

o. Advice of Counsel

Each Party has sought advice of counsel in its review and execution of this Agreement and enters into this Agreement freely, having read and understood the agreements contained herein.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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The Parties have executed this Agreement on the dates shown below.

HAROLD A. POWERS and EVEA H.
POWERS

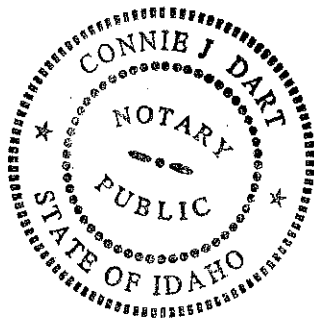
Dated: October 30, 2007

By: Harold A. Powers
Harold A. Powers on behalf of
Harold A. Powers and Evea H. Powers

State of Idaho)
County of Ada) ss.

On this 30th day of October, in the year 2007, before me, a Notary Public in and for said State, personally appeared Harold A. Powers, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, the day and year in this certificate first above written.



Connie Dart
Notary Public for: Idaho (state)
Residing at: Boise, Idaho
My Commission expires: 7/20/2010

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JACK RUBELT and AVA E. RUBELT

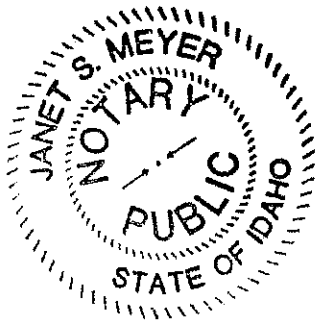
Dated: 10/18/07

By: Jack Rubelt
Jack Rubelt on behalf of
Jack Rubelt and Ava E. Rubelt

State of Idaho)
County of Adams) ss.

On this 18 day of October, in the year 2007, before me, a Notary Public in and for said State, personally appeared Jack Rubelt, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, the day and year in this certificate first above written.



Janet S. Meyer
Notary Public for: Idaho (state)
Residing at: Chandler
My Commission expires: 8/21/12

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MOONSHINE VENTURES, LLC

Dated: 10-12-07

By: Douglas M. Scism

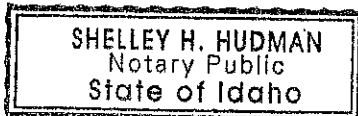
Douglas M. Scism, Manager of Wild Horse Management, LLC, the General Partner of Sunshine Ventures, L.P., the Sole Member of Moonshine Ventures, LLC, on behalf of Moonshine Ventures, LLC

State of Idaho)
County of Washington) ss.

On this 12th day of October, in the year 2007, before me, a Notary Public in and for said State, personally appeared Douglas M. Scism, known or identified to me to be Manager of Wild Horse Management, LLC, a limited liability company, the General Partner of Sunshine Ventures, L.P., a limited partnership, the sole member of Moonshine Ventures, LLC, a limited liability company, the member who subscribed said limited liability company name to the foregoing instrument, and acknowledged to me that such limited partnership executed the same in said limited liability company name.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, the day and year in this certificate first above written.

Shelley H. Hudman
Notary Public for: Idaho (state)
Residing at: Weiser
My Commission expires: 3-10-10



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Dated: 10/11/07

Approved as to form:

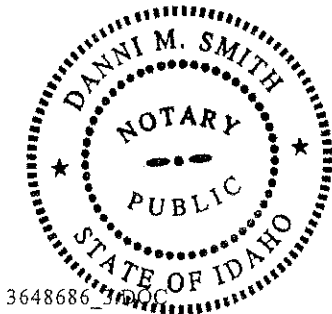
Chris M. Bromley

Chris M. Bromley
Deputy Attorney General
Natural Resources Division
Water Resources Section
Office of the Attorney General State of
Idaho

State of IDAHO)
County of ADA) ss.

On this 11th day of October, in the year 2007, before me, a Notary Public in and for said County and State, personally appeared Chris M. Bromley, known or identified to me to be Deputy Attorney General of the Natural Resources Division, Water Resources Section of the Office of the Attorney General for the State of Idaho that executed the within instrument, and acknowledged to me that such State executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, the day and year in this certificate first above written.



Danni M. Smith
Notary Public for: IDAHO (state)
Residing at: BOISE ID
My Commission expires: 12/12/12

SCANNED
DEC 11 2007

03/21/2006

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

RIGHT NUMBER: 69-4103A

NAME AND ADDRESS: EVEA H POWERS
7680 APPALOOSA LN
EMMETT ID 83617HAROLD A POWERS
7680 APPALOOSA LN
EMMETT ID 83617

SOURCE: CROOKED RIVER

TRIBUTARY: WILDHORSE RIVER

QUANTITY: 3.380 CFS

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

PRIORITY DATE: 04/01/1888

POINT OF
DIVERSION: T18N R03W S11 NESW Within ADAMS County
T18N R03W S11 NWSW Within ADAMS County
T18N R03W S15 NENE Within ADAMS CountyPURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	04/01 10/31	0.120 CFS
IRRIGATION	04/01 10/31	3.380 CFS

PLACE OF USE: IRRIGATION Within ADAMS County

T18N R03W S11	NESW	38.00	T18N R03W S11	SESW	39.00
T18N R03W S11	NWSE	36.00	T18N R03W S11	SWSE	19.00

132 ACRES TOTAL

STOCKWATER Within ADAMS County

T18N R03W S11	NESW	T18N R03W S11	SESW
T18N R03W S11	NWSE	T18N R03W S11	SWSE

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 for stockwater use is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Stockwater use is for 500 range cattle.

SCANNED
DEC 11 2007

03/21/2006

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

RIGHT NUMBER: 69-4104A

NAME AND ADDRESS: HAROLD A POWERS
7680 APPALOOSA LN
EMMETT ID 83617

EVEA H POWERS
7680 APPALOOSA LN
EMMETT ID 83617

SOURCE: MOONSHINE CREEK

TRIBUTARY: DICK ROSS CREEK

QUANTITY: 0.340 CFS

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

PRIORITY DATE: 04/01/1888

POINT OF
DIVERSION: T18N R03W S14 NENENW Within ADAMS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.320 CFS
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: IRRIGATION Within ADAMS County
T18N R03W S11 SWSE 16.00
16 ACRES TOTAL
STOCKWATER Within ADAMS County
T18N R03W S11 SWSE

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 for stockwater use is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use
Stockwater use is for 50 range cattle.

SCANNED

DEC 11 2007

03/21/2006

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

RIGHT NUMBER: 69-4103B

NAME AND ADDRESS: CHARLETA A SCISM
PO BOX 44
COUNCIL ID 83612

DOUGLAS M SCISM
PO BOX 44
COUNCIL ID 83612

SOURCE: CROOKED RIVER

TRIBUTARY: WILDHORSE RIVER

QUANTITY: 1.940 CFS

Right Nos. 69-4103B and 69-4104B are limited to a total combined diversion rate of 1.94 cfs.

PRIORITY DATE: 04/03/1888

POINT OF
DIVERSION: T18N R03W S15 NENE Within ADAMS County
T18N R03W S15 NENE Within ADAMS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	1.940 CFS

PLACE OF USE: IRRIGATION Within ADAMS County

T18N R03W S14	NWNE	1.00	T18N R03W S14	NENW	20.00
T18N R03W S14	NWNW	40.00	T18N R03W S14	SWNW	19.00
T18N R03W S15	NENE	17.00			

97 ACRES TOTAL

Right Nos. 69-4103B and 69-4104B are limited to the irrigation of a combined total of 97 acres in a single irrigation season.

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

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

This right is renumbered from former right 69-4103.

SCANNED
DEC 11 2007

03/21/2006

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

RIGHT NUMBER: 69-4104B

NAME AND ADDRESS: CHARLETA A SCISM
PO BOX 44
COUNCIL ID 83612

DOUGLAS M SCISM
PO BOX 44
COUNCIL ID 83612

SOURCE: MOONSHINE CREEK

TRIBUTARY: DICK ROSS CREEK

QUANTITY: 1.340 CFS

Right Nos. 69-4103B and 69-4104B are limited to a total combined diversion rate of 1.94 cfs.

PRIORITY DATE: 04/03/1888

POINT OF
DIVERSION: T18N R03W S14 NWNW Within ADAMS County
T18N R03W S14 SWNW Within ADAMS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	1.340 CFS

PLACE OF USE: IRRIGATION Within ADAMS County

T18N R03W S14	NWNE	1.00	T18N R03W S14	NENW	20.00
T18N R03W S14	NWNW	30.00	T18N R03W S14	SWNW	16.00

67 ACRES TOTAL

Right Nos. 69-4103B and 69-4104B are limited to the irrigation of a combined total of 97 acres in a single irrigation season.

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

This right is renumbered from former right 69-4103 .

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

SCANNED

DEC 11 2007

03/21/2006

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

RIGHT NUMBER: 69-4122

NAME AND ADDRESS: AVA E RUBELT
2280 OLD HORNET RD
COUNCIL ID 83612

JACK RUBELT
2280 OLD HORNET RD
COUNCIL ID 83612

SOURCE: CROOKED RIVER

TRIBUTARY: WILDHORSE RIVER

QUANTITY: 2.810 CFS

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

PRIORITY DATE: 04/02/1888

POINT OF

DIVERSION: T18N R03W S10 SESE Within ADAMS County
T18N R03W S10 SESE Within ADAMS County
T18N R03W S15 NENE Within ADAMS County
T18N R03W S15 NWNE Within ADAMS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.050 CFS
IRRIGATION	04/01 10/31	2.760 CFS

PLACE OF USE:

<u>IRRIGATION Within ADAMS County</u>					
T18N R03W S10	NESE	29.00	T18N R03W S10	NWSE	1.00
T18N R03W S10	SWSE	29.00	T18N R03W S10	SESE	40.00
99 ACRES TOTAL					
<u>STOCKWATER Within ADAMS County</u>					
T18N R03W S10	NESE		T18N R03W S10	NWSE	
T18N R03W S10	SWSE		T18N R03W S10	SESE	

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
Stockwater use is for 200 range cattle.

SCANNED

DEC 11 2007

Crooked River Diversions

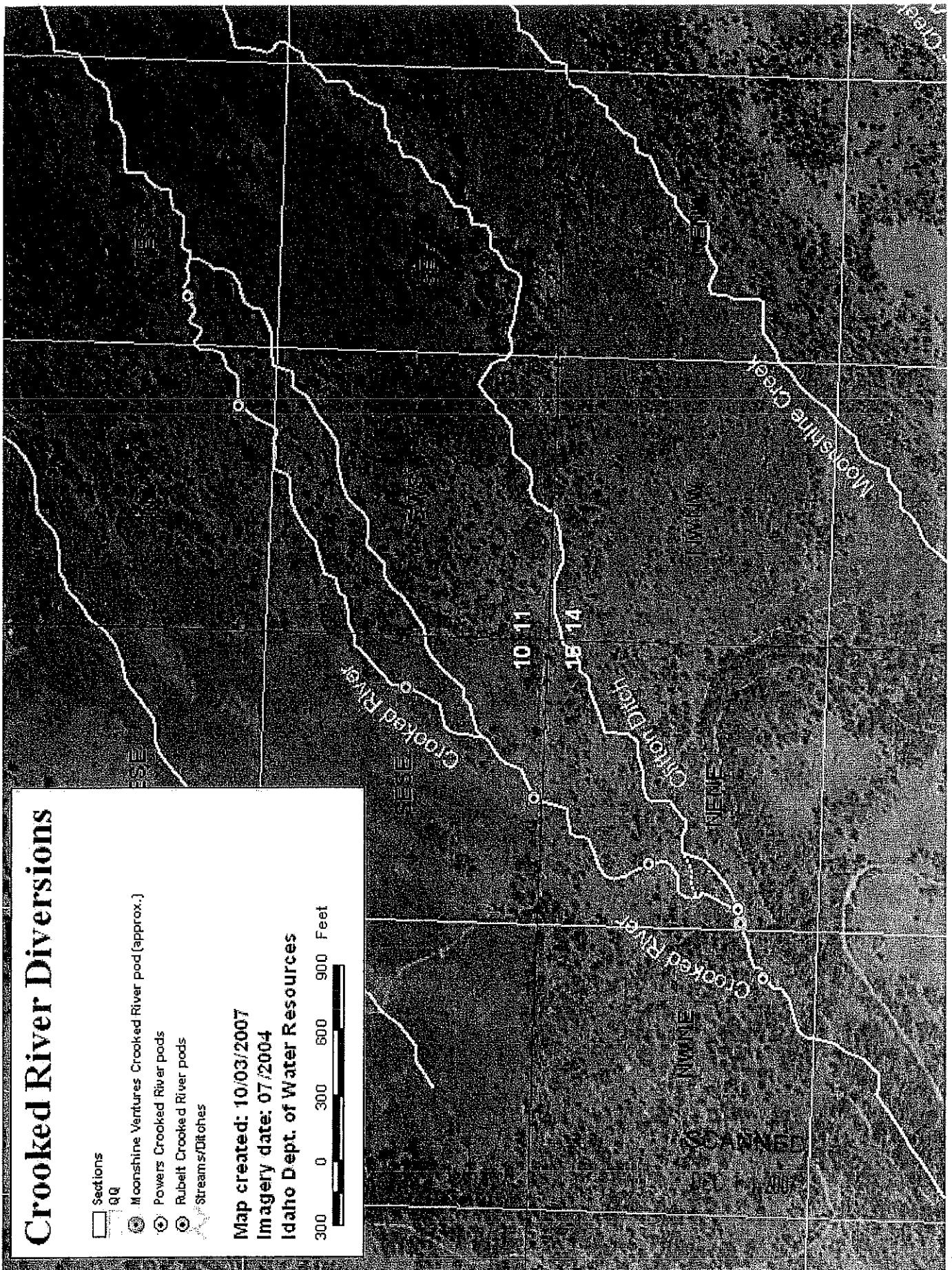
- Sections
QQ
- Moonsline Ventures Crooked River pod (approx.)
- Powers Crooked River pods
- Rubelt Crooked River pods
- Streams/Ditches

Map created: 10/03/2007

Imagery date: 07/2004

Idaho Dept. of Water Resources

300 0 300 600 900 Feet



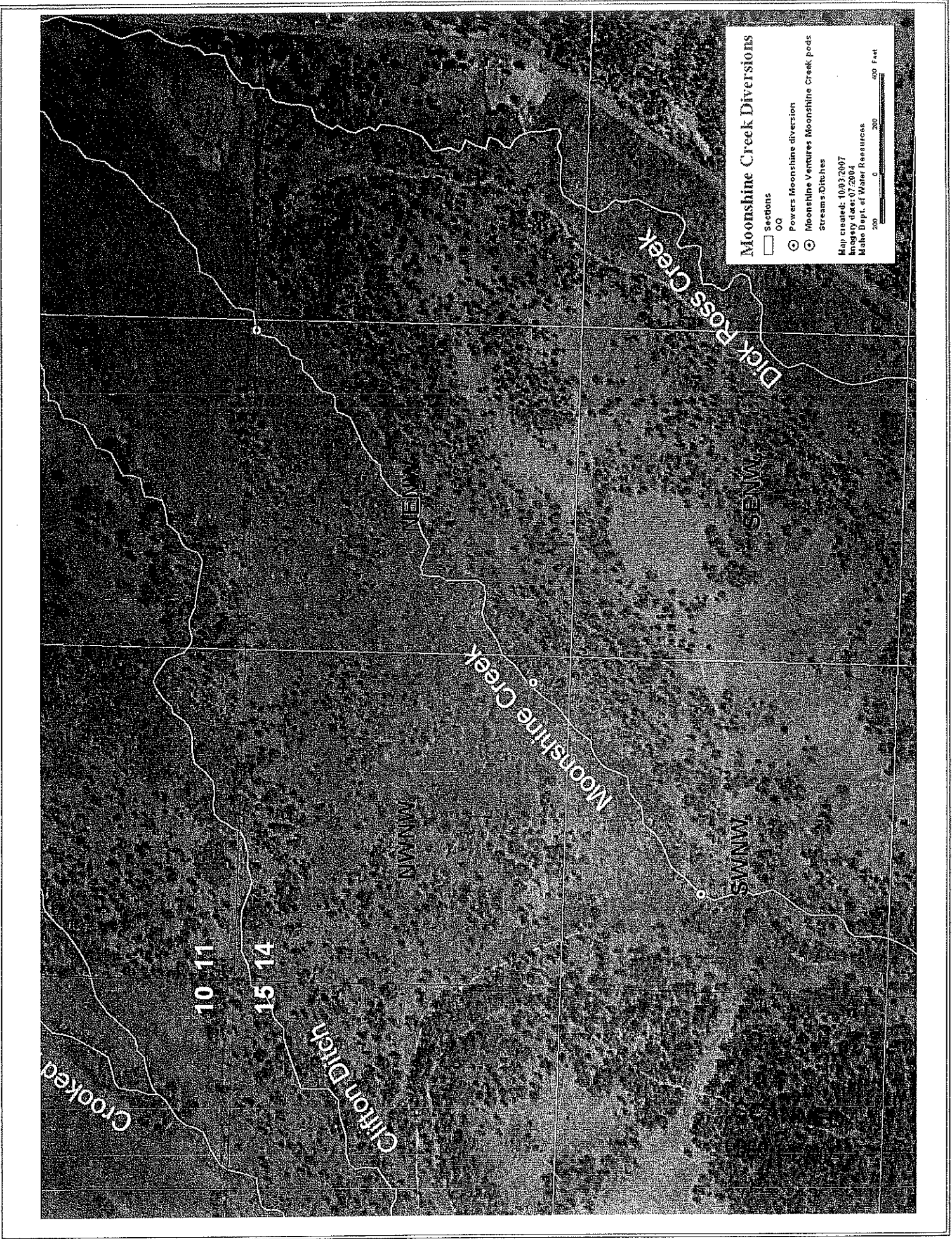


EXHIBIT “2”

SCANNED

DEC 11 2007

RECEIVED
NOV - 7 2007
HOLLAND & HART

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. 69-4103A

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):

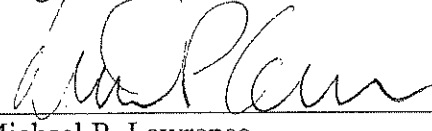
Harold & Evea Powers

 11/5/07

William G. Myers III Date
Attorney for claimants

OBJECTOR(s):

Douglas M. & Charletta A. Scism

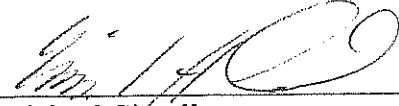
 11/1/07

Michael P. Lawrence Date
Attorney at Law

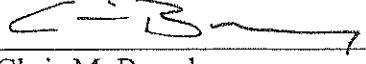
STANDARD FORM 5 - 69-4103A

SCANNED
DEC 11 2007

IDWR Concurrence:



Michael Ciscell 11/1/07
Date



Chris M. Bromley 10/31/07
Deputy Attorney General Date

CERTIFICATE OF MAILING

I certify that on NOVEMBER 5TH, 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:

Michael P. Lawrence
PO Box 2720
Boise, ID 83701
Attorney for Douglas & Charleta Scism

William G Myers III
101 S Capitol Blvd, Suite 1400
PO Box 2527
Boise, ID 83701-2527
Attorney for Harold & Evea Powers

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



Signature of person mailing the form

10/02/2007

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

RIGHT NUMBER: 69-4103A

NAME AND ADDRESS: EVEA H POWERS
7680 APPALOOSA LN
EMMETT ID 83617

HAROLD A POWERS
7680 APPALOOSA LN
EMMETT ID 83617

SOURCE: CROOKED RIVER

TRIBUTARY: WILDHORSE RIVER

QUANTITY: 3.380 CFS

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

PRIORITY DATE: 04/01/1888

POINT OF
DIVERSION:

T18N R03W S11 NESW Within ADAMS County
T18N R03W S11 NWSW Within ADAMS County
T18N R03W S15 NENE Within ADAMS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	04/01 10/31	0.120 CFS
IRRIGATION	04/01 10/31	3.380 CFS

PLACE OF USE: IRRIGATION in ADAMS County

T18N R03W S11	NESW	38.00	T18N R03W S11	SESW	39.00
T18N R03W S11	NWSE	36.00	T18N R03W S11	SWSE	19.00

132 ACRES TOTAL

STOCKWATER in ADAMS County

T18N R03W S11	NESW	T18N R03W S11	SESW
T18N R03W S11	NWSE	T18N R03W S11	SWSE

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.

Right nos. 69-4103A, 69-4103B, 69-4104A, 69-4104B and 69-4122 shall be administered in accordance with that certain Settlement Agreement recorded as instrument number 115466, Adams County Recorders Office.

CIB MAPL
MC WDH

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.

SCANNED
DEC 11 2007

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use
Stockwater use is for 500 range cattle.

SF 5 -- 69-4103A

**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. 69-4103B

STANDARD FORM 5

**STIPULATED ELEMENTS OF A
WATER RIGHT**

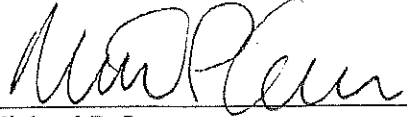
This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary 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):

Moonshine Ventures LLC



Michael P. Lawrence 11/1/07
Attorney for claimants Date

OBJECTOR(s):

Harold and Evea Powers



William G. Myers III 11/5/07
Attorney at Law Date

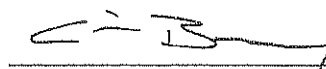
STANDARD FORM 5 – 69-4103B

SCANNED
DEC 11 2007

IDWR Concurrence:



Michael Ciscell 11/1/07
Date



Chris M. Bromley 10/31/07
Deputy Attorney General Date

SCANNED
DEC 11 2007

CERTIFICATE OF MAILING

I certify that on NOVEMBER 5TH, 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:

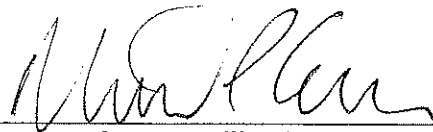
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

Michael P. Lawrence
PO Box 2720
Boise, ID 83701
Attorney for Douglas & Charleta Scism

William G Myers III
101 S Capitol Blvd, Suite 1400
PO Box 2527
Boise, ID 83701-2527
Attorney for Harold & Evea Powers

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



Signature of person mailing the form

SCANNED
DEC 11 2007

10/02/2007

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

RIGHT NUMBER: 69-4103B

NAME AND ADDRESS: MOONSHINE VENTURES LLC
PO BOX 44
COUNCIL ID 83612

SOURCE: CROOKED RIVER

TRIBUTARY: WILDHORSE RIVER

QUANTITY: 1.940 CFS

Right Nos. 69-4103B and 69-4104B are limited to a total combined diversion rate of 1.94 cfs.

PRIORITY DATE: ~~04/03/1888~~ 04/01/1955

POINT OF
DIVERSION:

T18N R03W S15 NENE Within ADAMS County
~~T18N R03W S15 NENE Within ADAMS County~~

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	1.940 CFS

PLACE OF USE: IRRIGATION in ADAMS County

T18N R03W S14	NWNE	1.00	T18N R03W S14	NENW	20.00
T18N R03W S14	NWNW	40.00	T18N R03W S14	SWNW	19.00
T18N R03W S15	NENE	17.00			

97 ACRES TOTAL

Right Nos. 69-4103B and 69-4104B are limited to the irrigation of a combined total of 97 acres in a single irrigation season.

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

Right nos. 69-4103A, 69-4103B, 69-4104A, 69-4104B and 69-4122 shall be administered in accordance with that certain Settlement Agreement recorded as instrument number 115466, Adams County Recorders Office.

CB MPL
mc WTM

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

This right is renumbered from former right 69-4103.

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

SCANNED
DEC 11 2007

SF 5 - 69-4103B

**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. 69-4104A
)
)
)
)
)
)
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STANDARD FORM 5

**STIPULATED ELEMENTS OF A
WATER RIGHT**

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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):

Harold & Evea Powers

 11/5/07

William G. Myers III Date
Attorney for claimants

OBJECTOR(s):

Douglas M. & Charletta A. Scism

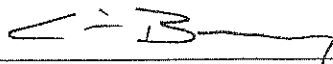
 11/1/07

Michael P. Lawrence Date
Attorney at Law

IDWR Concurrence:



Michael Ciscell 11/1/07
Date



Chris M. Bromley 10/31/07
Deputy Attorney General Date

CERTIFICATE OF MAILING

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PO Box 2720
Boise, ID 83701
Attorney for Douglas & Charleta Scism

William G Myers III
101 S Capitol Blvd, Suite 1400
PO Box 2527
Boise, ID 83701-2527
Attorney for Harold & Evea Powers

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



Signature of person mailing the form

10/02/2007

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

RIGHT NUMBER: 69-4104A

NAME AND ADDRESS: HAROLD A POWERS
7680 APPALOOSA LN
EMMETT ID 83617

EVEA H POWERS
7680 APPALOOSA LN
EMMETT ID 83617

SOURCE: MOONSHINE CREEK

TRIBUTARY: DICK ROSS CREEK

QUANTITY: 0.340 CFS

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

PRIORITY DATE: 04/01/1888

POINT OF
DIVERSION:

T18N R03W S14 NENENW Within ADAMS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.320 CFS
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: IRRIGATION in ADAMS County

T18N R03W S11 SWSE 16.00

STOCKWATER in ADAMS County

T18N R03W S11 SWSE

16 ACRES TOTAL

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.

Right nos. 69-4103A, 69-4103B, 69-4104A, 69-4104B and 69-4122 shall be administered in accordance with that certain Settlement Agreement recorded as instrument number 115466, Adams County Recorders Office.

CB MFL
MC Wom

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

Stockwater use is for 50 range cattle.

SCANNED
DEC 11 2007

SF 5 - 69-4104A

**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. 69-4104B

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.

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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):

Moonshine Ventures LLC



Michael P. Lawrence
Attorney for claimants

11/1/07
Date

OBJECTOR(s):

Harold and Evea Powers



William G. Myers III
Attorney at Law

11/5/07
Date

STANDARD FORM 5 - 69-4104B

SCANNED
DEC 11 2007

IDWR Concurrence:



Michael Ciscell 11/1/07
Date



Chris M. Bromley 10/31/07
Deputy Attorney General Date

SCANNED
DEC 11 2007

CERTIFICATE OF MAILING

I certify that on NOVEMBER 5TH, 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:

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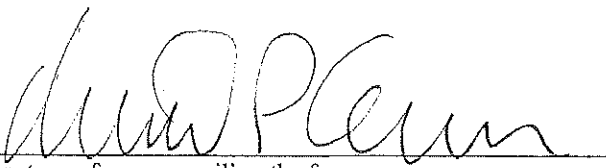
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

Michael P. Lawrence
PO Box 2720
Boise, ID 83701
Attorney for Douglas & Charleta Scism

William G Myers III
101 S Capitol Blvd, Suite 1400
PO Box 2527
Boise, ID 83701-2527
Attorney for Harold & Evea Powers

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


Signature of person mailing the form

10/02/2007

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

RIGHT NUMBER: 69-4104B

NAME AND ADDRESS: MOONSHINE VENTURES LLC
PO BOX 44
COUNCIL ID 83612

SOURCE: MOONSHINE CREEK

TRIBUTARY: DICK ROSS CREEK

QUANTITY: 1.340 CFS

Right Nos. 69-4103B and 69-4104B are limited to a total combined diversion rate of 1.94 cfs.

PRIORITY DATE: ~~04/03/1988~~ 04/01/1955

POINT OF
DIVERSION:

T18N R03W S14 NWNW Within ADAMS County

T18N R03W S14 SWNW Within ADAMS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	1.340 CFS

PLACE OF USE: IRRIGATION in ADAMS County

T18N R03W S14	NWNE	1.00	T18N R03W S14	NENW	20.00
T18N R03W S14	NWNW	30.00	T18N R03W S14	SWNW	16.00

67 ACRES TOTAL

Right Nos. 69-4103B and 69-4104B are limited to the irrigation of a combined total of 97 acres in a single irrigation season.

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.

Right nos. 69-4103A, 69-4103B, 69-4104A, 69-4104B and 69-4122 shall be administered in accordance with that certain Settlement Agreement recorded as instrument number 115466, Adams County Recorders Office.

CR Wm
MC MPL

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

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

This right is renumbered from former right 69-4103.

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SF 5 - 69-4104B

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

2007 NOV 13 AM 11 14

**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. 69-4122
)
)
)
)
)
)
)

STANDARD FORM 5

**STIPULATED ELEMENTS OF A
WATER RIGHT**

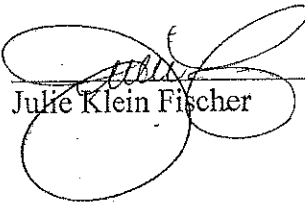
This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary 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):

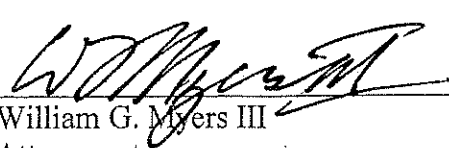
Jack and Ava E. Rubelt


Julie Klein Fischer

11-7-07
Date

OBJECTOR(s):

Harold and Evea Powers


William G. Myers III
Attorney at Law

11/5/07
Date

STANDARD FORM 5 - 69-4122

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COPY

RESPONDENT(s):

Douglas & Charleta Scism

 11/1/07

Michael P Lawrence

Date

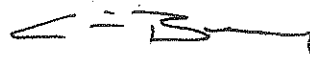
Attorney

IDWR Concurrence:

 11/1/07

Michael Ciscell

Date

 10/31/07

Chris M. Bromley

Date

Deputy Attorney General

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CERTIFICATE OF MAILING

I certify that on November 9, 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

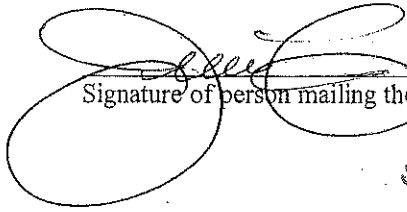
2. Copies to:

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Attorney for Douglas & Charleta Scism

William G Myers III
101 S Capitol Blvd, Suite 1400
PO Box 2527
Boise, ID 83701-2527
Attorney for Harold & Evea Powers

White Peterson, P.A.
5700 E Franklin Road, Suite 200
Nampa, ID 83687-7901
Attorney for Jack & Ava Rubelt

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



Signature of person mailing the form

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10/02/2007

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

RIGHT NUMBER: 69-4122

NAME AND ADDRESS: AVA E RUBELT
2280 OLD HORNET RD
COUNCIL ID 83612

JACK RUBELT
2280 OLD HORNET RD
COUNCIL ID 83612

SOURCE: CROOKED RIVER

TRIBUTARY: WILDHORSE RIVER

QUANTITY: 2.810 CFS

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

PRIORITY DATE: 04/02/1888 05/06/1901

POINT OF
DIVERSION:

T18N R03W S10 SESE Within ADAMS County
T18N R03W S10 SESE Within ADAMS County
T18N R03W S15 NENE Within ADAMS County
T18N R03W S15 NWNE Within ADAMS County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
STOCKWATER	01/01 12/31	0.050 CFS
IRRIGATION	04/01 10/31	2.760 CFS

PLACE OF USE: IRRIGATION in ADAMS County

T18N R03W S10	NESE	29.00	T18N R03W S10	NWSE	1.00
T18N R03W S10	SWSE	29.00	T18N R03W S10	SESE	40.00

99 ACRES TOTAL

STOCKWATER in ADAMS County

T18N R03W S10	NESE	T18N R03W S10	NWSE
T18N R03W S10	SWSE	T18N R03W S10	SESE

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.

Right nos. 69-4103A, 69-4103B, 69-4104A, 69-4104B and 69-4122 shall be administered in accordance with that certain Settlement Agreement recorded as instrument number 115466, Adams County Recorders Office.

JH CB WTM
MC MPL

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
Stockwater use is for 200 range cattle.

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SF5 - 69-4122

EXHIBIT “3”

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DEC 11 2007

**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 Nos. 69-4103A, 69-4103B, 69-
) 4104A, 69-4104B, 69-4122
)
) **[PROPOSED] ORDER GRANTING**
) **MOTION IN SUPPORT OF**
) **SETTLEMENT AGREEMENT**
)

This matter having come before the Court on Motion in Support of Settlement Agreement filed by Harold A. Powers and Eva H. Powers, Jack Rubelt and Ava E. Rubelt, and Moonshine Ventures, LLC (the "Parties"), and good cause appearing therefor,

IT IS HEREBY ORDERED that:

1. The above-referenced subcases are partially DECREED according to the recommendations in the Director's Report as modified by and subject to the terms of the Settlement Agreement entered into by the Parties, pending the final decree in Case No. 39576. The original Director's Report has been modified pursuant to the Settlement Agreement as evidenced by the Standard Form 5 forms filed for each of the above-referenced subcases.
2. The Settlement Agreement among the Parties, attached to the Parties' Motion in Support of Settlement Agreement as Exhibit 1, is hereby APPROVED.
3. All pending motions and objections in the above-referenced subcases are hereby DISMISSED as moot.
4. The Court RETAINS JURISDICTION for purposes of enforcement of disputes regarding the partial decrees and the implementation and enforcement of the Settlement Agreement.

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5. The Parties are BARRED from raising any potential or future claims regarding these subcases other than for enforcement of the Settlement Agreement and the partial decrees.

DATED this _____ day of _____ 2007.

JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____ 2007, I caused to be served a true and correct copy of the foregoing by U.S. Mail addressed to the following:

Chris M. Bromley
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0098

Michael P. Lawrence
Givens Pursley LLP
P.O. Box 2720
Boise, ID 83701

William G. Myers III
Holland & Hart LLP
P.O. Box 2527
Boise, ID 83701

Julie Klein Fischer
White Peterson, PA
5700 E. Franklin Road, Suite 200
Nampa, ID 83687-7901

Clerk of the Court

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