

RECEIVED

JAN 23 2008

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. 77-13849
)
)
)
)
)
)
)

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.

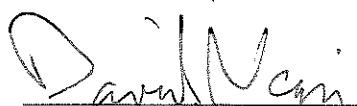
CLAIMANT:

Kimberly Gold Mines, Inc.

OBJECTOR:

United States of America
USDA Forest Service

 1-17-08
Peter G. Scott Date
Attorney for Kimberly Gold Mines, Inc.

 1/18/08
David L. Negri, USDOJ Date
Attorney for Objector

STANDARD FORM 5 - 77-13849

OBJECTOR:

United States of America
Bureau of Land Management

David Meyer for LAB 1/8/08

Larry A. Brown, USDOJ Date
Attorney for Objector.

IDWR Concurrence:

[Signature] 1/3/8
Kenneth Knoblock Date
Senior Water Resource Agent

[Signature] 1/3/08
Garrick L. Baxter Date
Deputy Attorney General
Attorney for IDWR

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

RIGHT NUMBER: 77-13849

NAME AND ADDRESS: KIMBERLY MINES INC
BOX 2848
COEUR D'ALENE ID 83816

SOURCE: SPRING

TRIBUTARY: SINKS

QUANTITY: 0.040 CFS

PRIORITY DATE: ~~05/31/1920~~ 09/09/1935

POINT OF DIVERSION:

T22N R06E S12 SWNESE Within IDAHO County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

MINING

1/01 12/31

0.040 CFS

PLACE OF USE: MINING in IDAHO County

T22N R06E S12 NESW

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.

This water right is only for underground use at the Rescue Mine and use on the Old Rescue Mill Site Claim for mining purposes authorized under state and federal law.

The point of diversion and place of use for this water right are on National Forest System Land, an unpatented mill site claim known as the Old Rescue Mill Site, IMC-20117, part of Mineral survey 3686 A&B.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

CERTIFICATE OF MAILING

I certify that on January 22, 2008, 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:

U.S. Dept. of Justice
Environment & Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

IDWR Repository
P.O. Box 83720
Boise, ID 83720-0095

Kimberly Gold Mines, Inc.
Box 2848
Coeur d'Alene, Idaho 83816

Peter G. Scott
Gough, Shanahan, Johnson and Waterman
33 South Last Chance Gulch
Helena, Montana 59601
Of attorneys for Claimant



Signature of person mailing the form