



U.S. Department of Justice

Environment and Natural Resources Division

DWG:DAJ

90-6-2-63c

David A. Jarvis
Labat-Anderson, Inc.
1961 Stout Street, 8th Floor
Denver, Colorado 80294

Telephone (303) 844-1485
Facsimile (303) 844-1350
E-mail: David.Jarvis2@usdoj.gov

RECEIVED

APR 11 2008

DEPARTMENT OF
WATER RESOURCES

April 8, 2008

via FedEx Mail

Diana R. Delaney, Chief Deputy Clerk
Snake River Basin Adjudication
DISTRICT COURT
253 Third Ave., North
Twin Falls, Idaho 83303-2707

Re: SRBA Case No. 39576
Subcase No. 63-04176

Dear Ms. Delaney:

Enclosed for filing in the above listed subcase is the following document:

1. **STANDARD FORM 5 - STIPULATED ELEMENTS OF A WATER RIGHT**

Sincerely,

David A. Jarvis
Paralegal

Enclosure

RECEIVED

APR 11 2008

DEPARTMENT OF
WATER RESOURCES

RECEIVED

FEB 04 2008

DEPARTMENT OF
WATER RESOURCESIN 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: 63-4176

Case No. 39576

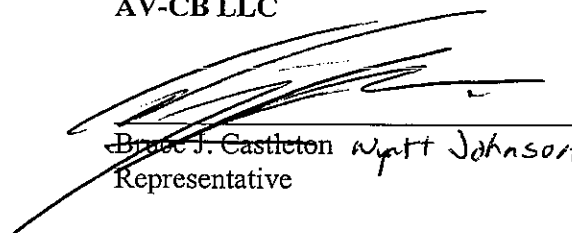
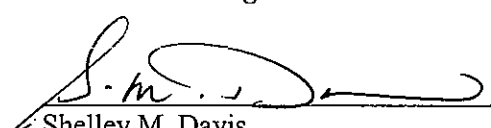
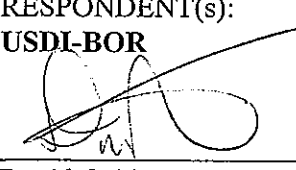
STANDARD FORM 5

STIPULATED ELEMENTS OF A
WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law. 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; and 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 indicate their concurrence by their signatures below and by initialing each of the attached pages.

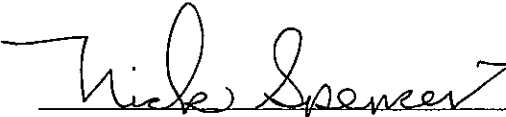
CLAIMANT(s):
AV-CB LLCOBJECTOR(s):
Boise-Kuna Irrigation District
Bruce J. Castleton
Representative3/28/08
Date
Shelley M. Davis2/15/08
DateRESPONDENT(s):
USDL-BOR
David Gehlert4/2/08
Date

SF5 Right No. 63-4176

IDWR CONCURRENCE:

 1-31-08

Jan Shurte Date
Adjudication Supervisor, IDWR

 2-5-08

Nicholas B Spencer Date
Deputy Attorney General
Attorney for IDWR

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

RIGHT NUMBER: 63-4176

NAME AND ADDRESS: AV-CB LLC
9647 W PEBBLE BROOK LN
BOISE ID 83714

SOURCE: WASTE WATER

TRIBUTARY: TENMILE CREEK

QUANTITY: 0.270 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 0.32 CFS AND TO A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 61.2 AF. COMBINED RIGHT NOS.:
63-04175 & 63-04176.

PRIORITY DATE: 03/01/1959

POINT OF DIVERSION:

T02N R01E S4 NWSE Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.270 CFS

PLACE OF USE: IRRIGATION in ADA County

T02N R01E S04 NWSE 23.00

23 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 63-04175 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 13.6 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.

The source of this water right is waste water. The wasting of water
may be discontinued at any time.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

The right holder shall accomplish the change authorized by Transfer 71048
by 4/26/2009.

After specific notification by the Department, the right holder shall install
a suitable measuring device or shall enter into an agreement with the
Department to determine the amount of water diverted from power records
and shall annually report the information to the Department.

Failure of the right holder to comply with the conditions of transfer # 71048
is cause for the Director to rescind approval of the transfer.

CERTIFICATE OF MAILING

I certify that on this 8th day of April 2007, I mailed the original and copies of this form, including all attachments, as indicated below:

via FedEx mail:

CLERK OF THE SRBA COURT (Original)
SRBA Courthouse
District Court
253 Third Ave. North
Twin Falls, Idaho 83301
Phone: (208) 736-3011

via First Class U.S. Mail, prepaid:

Wyatt Johnson
Angstman, Johnson, & Associates
3649 Lakeharbor Lane
Boise, ID 83703

Shelley M. Davis
Barker, Rosholt & Simpson
P.O. Box 2139
Boise, ID 83701-2139

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resources Div.
550 West Fort Street, MSC 033
Boise, ID 83724

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



David W. Gehlert