



U.S. Department of Justice

Environment and Natural Resources Division

DWG:DAJ

90-6-2-63c

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RECEIVED

JUN 09 2008

DEPARTMENT OF
WATER RESOURCES

June 3, 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

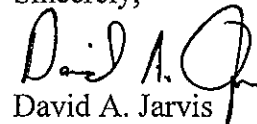
Re: SRBA Case No. 39576
Subcase No. 63-04175

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

**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. 63-4175
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

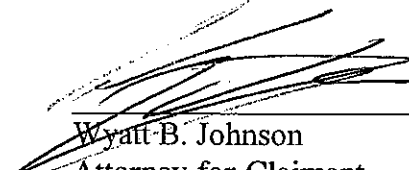
This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary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

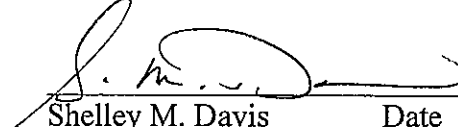
The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT:
AV-CB LLC

OBJECTOR:
Boise-Kuna Irrigation District


Wyatt B. Johnson
Attorney for Claimant

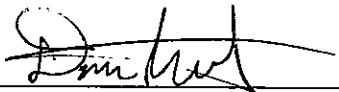
5/23/08
Date


Shelley M. Davis
Attorney for Objector

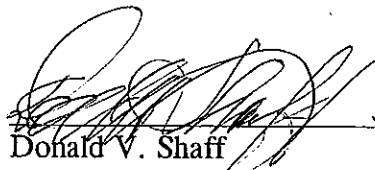
5/14/08
Date

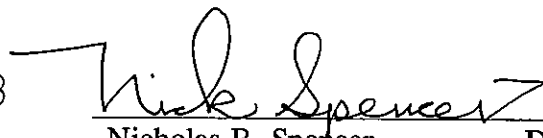
RESPONDENT:

Bureau of Reclamation


David W. Gehlert, USDOJ Date 6/3/08
Attorney for BOR

IDWR Concurrence:


Donald V. Shaff Date 5-13-08
Adjudication Bureau Chief


Nicholas B. Spencer Date 5-13-08
Deputy Attorney General
Attorney for IDWR

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

RIGHT NUMBER: 63-4175

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

SOURCE: TENMILE CREEK

TRIBUTARY: FIFTEENMILE CREEK

QUANTITY: 0.320 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: 03/01/1929

POINT OF DIVERSION:

T02N R01E S4 NWSE Within ADA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03/01 11/15	0.320 CFS

PLACE OF USE: IRRIGATION in ADA County

T02N R01E S04 NWSE 23.00

23 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 63-04176 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:

The irrigation district has no duty to deliver water to the water right holder
to fulfill 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

The portion of Right 63-04175 used for conveyance losses is 0.05 cfs.

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

After specific notification by the Department, the right holder shall install
asuitable 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.

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

CERTIFICATE OF MAILING

I certify that on June 3, 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:

AV-CB LLC
Represented by:
WYATT B. JOHNSON
ANGSTMAN JOHNSON & ASSOCIATES
3649 LAKEHARBOR LN.
BOISE, ID 83703

BOISE KUNA IRRIGATION DIST
Represented by:
SHELLEY M. DAVIS
1010 W. JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

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
P.O. BOX 83720
BOISE, ID 83720-0098



Signature of person or attorney mailing form