



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

October 09, 2008

K. Heidi Gudgell
Nez Perce Tribal Executive Committee
100 Agency Road
PO Box 305
Lapwai, ID 83540

Re: Subcase Nos. 85-16, et al.

Dear Counsel:

Enclosed please find the original documents entitled "Standard Form 5 – Stipulated Elements of a Water Right" (commonly referred to as SF 5) for the above referenced subcase nos. for Basin 85.

Please review the new recommendation which is attached to the original SF 5 document. If all the information is correct, please sign and date the first page of the original and initial the page entitled "Recommendation of Water Rights Acquired Under State Law." After you have signed and initialed the original, **please forward the documents to Mr. David Gehlert for his review at the following address:**

Natural Resources Section
Environment and Natural Resource Division
U.S. Department of Justice
1961 Stout Street – 8th Floor
Denver, CO 80294

If you have any questions regarding this process or the enclosed documents please do not hesitate to call me at 287-4814.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink that reads "Renea Ridgeway".

Renea Ridgeway
Paralegal, IDWR

Enclosures

**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. 85-11087
	)	
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

United States of America on behalf of the
Bureau of Reclamation

OBJECTOR

Nez Perce Tribe

David Gehlert

Date

K. Heidi Gudgell, Attorney

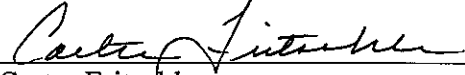
Date

INTERVENOR

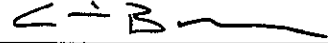
Nez Perce Tribe Exec Comm

Ryan W. Sudbury Date

IDWR Concurrence:

 10-8-08

Carter Fritschle Date

 10/8/08

Chris M. Bromley Date
Deputy Attorney General
Attorney for IDWR

CERTIFICATE OF MAILING

I certify that on _____, 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:

NEZ PERCE TRIBE
Represented by:
DAVID J. CUMMINGS
NEZ PERCE TRIBAL EXEC COMM
100 AGENCY ROAD
PO BOX 305
LAPWAI, ID 83540

NEZ PERCE TRIBE
Represented by:
K. HEIDI GUDGELL
NEZ PERCE TRIBAL EXEC COMM
100 AGENCY ROAD
PO BOX 305
LAPWAI, ID 83540

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

RYAN W SUDBURY
NEZ PERCE TRIBAL EXEC COMM
100 AGENCY ROAD
PO BOX 305
LAPWAI, ID 83540

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

Signature of person mailing the form

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

RIGHT NUMBER: 85-11087

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
BUREAU OF RECLAMATION
REGIONAL DIRECTOR PN CODE-3100
1150 N CURTIS RD STE 100
BOISE ID 83706-1234

SOURCE: WEST FORK SWEETWATER CREEK

TRIBUTARY: SWEETWATER CREEK

Point of injection in T33N, R04W, S15, Lot 4 (SWNW) is into Waha Lake.
Point of rediversion in T33N, R04W, S09, Lot 5 (SESE) is from Waha Lake.
Point of injection in T33N, R04W, S09, NWNW is into an unnamed stream
tributary to the West Fork of Sweetwater Creek. Point of rediversion in
T34N, R04W, S21, Lot 3 (NWSW) is from Sweetwater Creek via the
Sweetwater Canal. Point of injection and point of rediversion in T35N,
R04W, S17, Lot 18 (SESE) is from Lindsay Creek at Mann Lake.

QUANTITY: 20.000 CFS
1,308.50 AFY

PRIORITY DATE: 12/31/1935

POINT OF
DIVERSION:

T33N R04W S9 NWNW Injection Within NEZ PERCE County
T33N R04W S9 SESE Lot 5 Rediversion Within NEZ PERCE County
T33N R04W S14 SWSW Within NEZ PERCE County
T33N R04W S15 SWNW Lot 4 Injection Within NEZ PERCE County
T34N R04W S21 NWSW Lot 3 Rediversion Within NEZ PERCE County
T35N R04W S17 SESE Lot 18 Injection Within NEZ PERCE County
T35N R04W S17 SESE Lot 18 Rediversion Within NEZ PERCE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MUNICIPAL STORAGE	01/01 12/31	1,308.50 AFY
MUNICIPAL FROM STORAGE	01/01 12/31	1,308.50 AFY
DIVERSION TO STORAGE	01/01 12/31	20.000 CFS
IRRIGATION STORAGE	01/01 12/31	1,308.50 AFY
IRRIGATION FROM STORAGE	03/15 11/15	1,308.50 AFY

PLACE OF USE:

3845 ACRES TOTAL

Place of use is within the service area of Lewiston Orchards Irrigation District as provided for under Idaho law. The place of use is generally described as within the city limits of Lewiston and the surrounding service area.

The boundary encompassing the irrigation place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

Right Nos. 85-16, 85-2049, 85-2063, 85-2065, 85-2146, 85-2147, 85-4483, 85-11087 and 85-15424 are limited to the irrigation of a combined total of 3845 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

Municipal use includes domestic use as claimed.

CA
CB