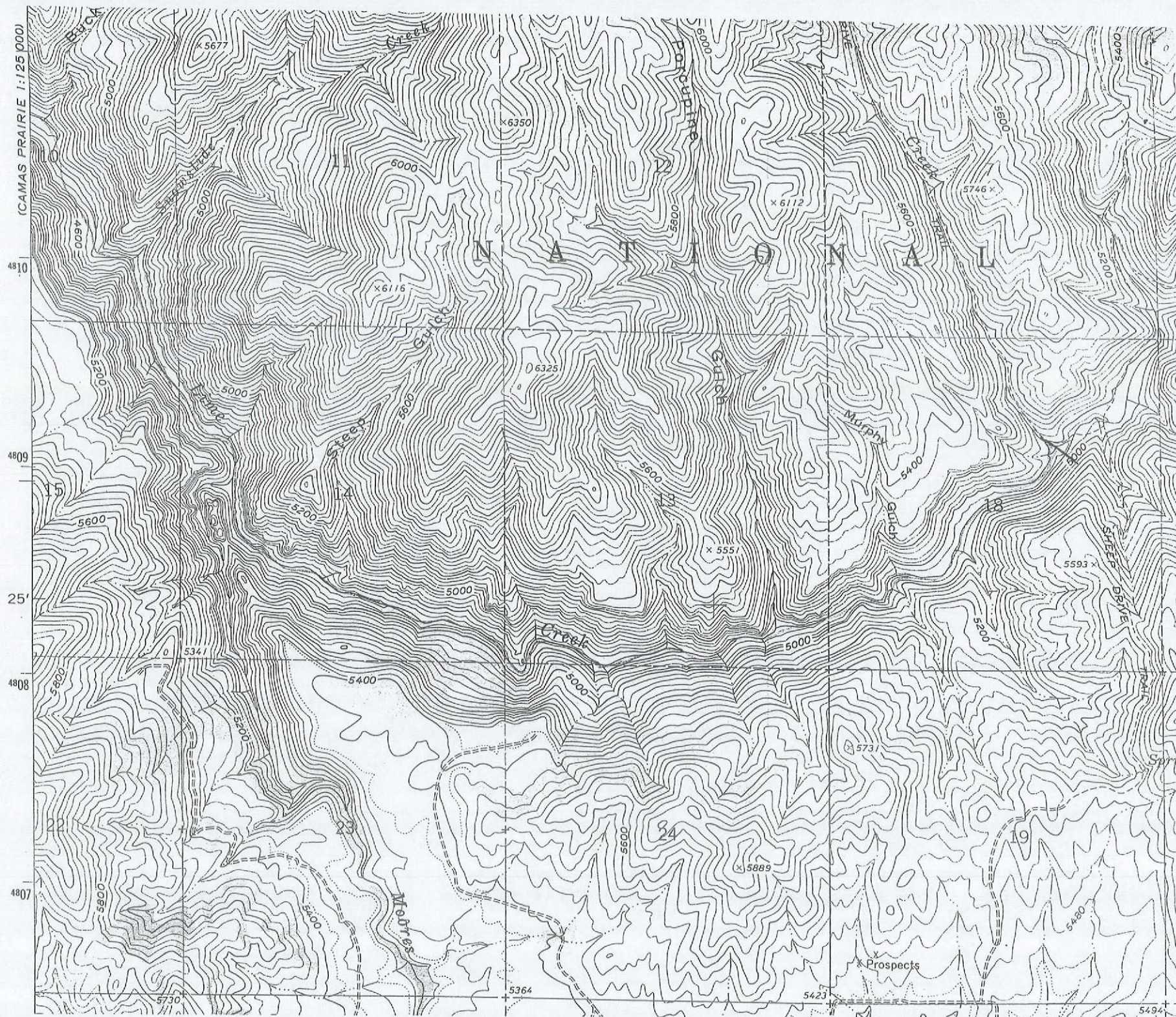




IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 63-31990
Date Received: 3/28/2002
Receipt No: X777777
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

UNITED STATES OF AMERICA ACTING THROUGH Phone: (208)387-0835
USDA FOREST SERVICE
550 W FORT ST MSC 033
BOISE ID USA 83724

2. Date of Priority: 04/01/1911

3. Source: SPRING Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
01N	10E	23	NW NW	ELMORE	

5. Description of diverting works:

Instream stockwater

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
STOCKWATER	01/01	12/31	0.02	

7. Total Quantity Appropriated is:
0.02 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:
Number of other uses: 20 Range Cattle

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
01N	10E	23	NW	NW	STOCKWATER	

11. Place of use in counties: ELMORE

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

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.

Use of this right with Right No. 63-31989 is limited to a total combined diversion rate of .02 cfs and a total combined quantity of 13,000 gallons per day.

The quantity of water decreed for this water right is not a determination of historical beneficial use.

This right is a split from former right 63-31459.

15. Basis of Claim: Beneficial Use

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 63-31459
Date Received: 3/28/2002
Receipt No: W028943
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

MC GREW RANCH LLC Phone: (208)580-2996
RT 1 BOX 463
GLENN'S FERRY ID USA 83623

2. Date of Priority: 04/01/1911

3. Source: SPRING Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
01N	10E	23	NW NW	ELMORE	

5. Description of diverting works:

Instream stockwater

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
STOCKWATER	01/01	12/31	0.02	

7. Total Quantity Appropriated is:
0.02 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:
Number of other uses: 20 Range Cattle

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
01N	10E	23	NW	NW	STOCKWATER	

11. Place of use in counties: ELMORE

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

Property on Forest Service land.

15. Basis of Claim: Beneficial Use

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Identification No. ALB-31459Date Received 3-28-02Receipt Number W028943NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW
For Domestic and/or Stockwater Purposes
Where Daily Use is less than 13,000 gallons per day.RECEIVED
MAR 28 2002
WATER RESOURCES
WESTERN REGION

Filing Fee \$25

Please type or print clearly

1. Name of Claimant (s) Mc Grow Ranch LLC Phone (208) 580-2996Mailing Address Rt 1 Box 463 Glenns Ferry Zip 836232. Date of Priority (Only one per claim) 4/1/1911 Month/Day/Year3. Source of water supply (Check one) () Groundwater or Other () (a) Spring
which is tributary to (b) Sinks Name or kind of source4. Location of point of diversion is: Township 1N Range 10E
Section 23 1/4 of NW 1/4 of NW 1/4, Govt. Lot _____, BM.,
County of Elmore

Additional points of diversion if any: _____

5. Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate Etc.), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. undivided

6. Water is claimed for the following: (limited to Domestic and/or Stockwater only. See Instructions.)

For Stockwater purposes from 11 Month/Day to 12/31 Month/Day amount .02 (cfs)
(Both dates are inclusive)
For _____ purposes from _____ to _____ amount _____7. Total quantity claimed .02 (cfs)8. Total consumptive use claimed is de minimus9. Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership; Stockwater: Type and Number of livestock) 20 Range cattle

10. Place of use is: Township: W Range 10E
Section 23, NW 1/4 of NW 1/4, Govt. Lot _____, B.M.,

for (Circle One) Domestic Stock Domestic and Stock
Additional places of use, if any _____

11. In which county (ies) are lands listed above as place of use located? Elmore

12. Do you own the property listed above as place of use? Yes _____ No X
If your answer is No, describe in Remarks below the authority you have to claim this water right.
13. Describe any other water rights used at the same place and for the same purposes as described above.
() None or _____

14. Remarks: Property on F.S. 20 head stock Range Cattle

15. Basis of Claim (Circle One) Beneficial Use Posted Notice License Permit Decree

Court _____ Decree Date _____ Plaintiff vs Defendant _____

If applicable provide IDWR Water Right Number _____

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understood the form entitled "How you will receive notice in the Snake River Basin Adjudication". (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of Attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am manager Title
of McGrew Ranch, LLC that I have signed the foregoing
Organization
document in the space below as manager of McGrew Ranch LLC
Title Organization
and that the statements contained in the foregoing document are true and correct.

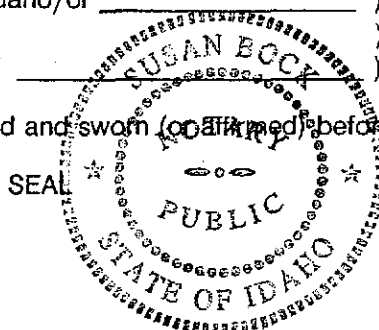
Signature of Authorized Agent John J. McGrew Date 3-28-02

Title and Organization manager, McGrew Ranch LLC

State of Idaho/or _____)

County of _____)

Subscribed and sworn (or affirmed) before me this 28th day of March 02 2002



NOTARIZATION REQUIRED FOR EACH CLAIM

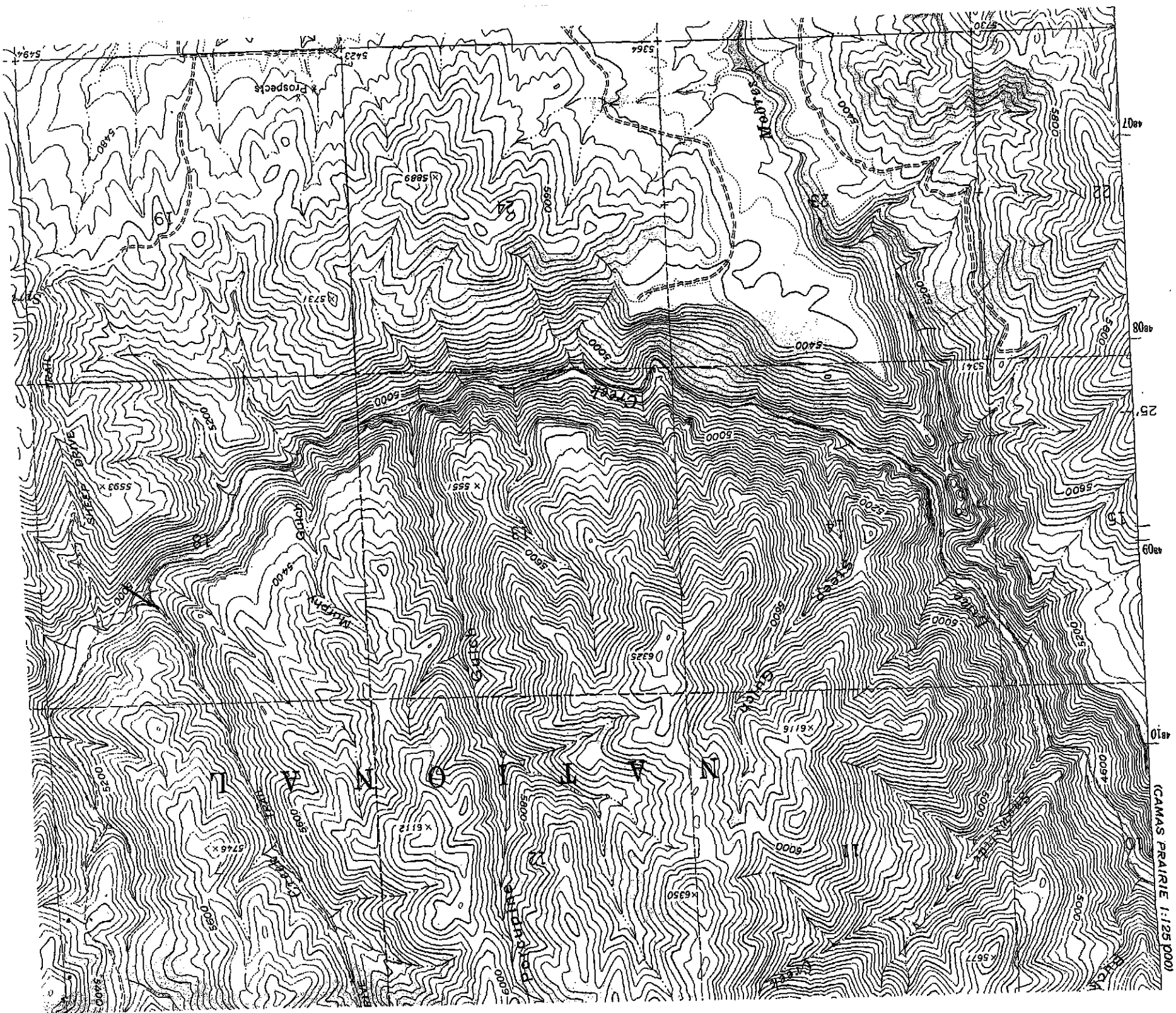
Notary Public Susan Bock

Residing at Malba, Idaho

My Commission Expires 10/23/2004

Last Name _____ Ident No. _____

Copies: White-State, Yellow-Claimant



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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 63-31990

2005 JAN 12 PM 3:19

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: MC GREW RANCH LLC
15600 NE HOT CREEK RD
GLENN'S FERRY, ID 83623

SOURCE: SPRING TRIBUTARY; SINKS

QUANTITY: 0.02 CFS

USE OF THIS RIGHT WITH RIGHT NO. 63-31989 IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF .02 CFS AND A TOTAL COMBINED QUANTITY
OF 13,000 GALLONS PER DAY.

PRIORITY DATE: 04/01/1911

POINT OF DIVERSION: T01N R10E S23 NWNW Within Elmore County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Stockwater Within Elmore County
T01N R10E S23 NWNW

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

THE OPERATION, USE AND ADMINISTRATION OF THIS WATER RIGHT IS
ALSO SUBJECT TO THE TERMS AND CONDITIONS OF THE STIPULATION TO
RESOLVE SUBCASES BETWEEN MC GREW RANCH LLC AND THE UNITED STATES
OF AMERICA, FILED IN THE OFFICE OF THE ELMORE COUNTY RECORDER AND
RECORDED ON OCTOBER 19, 2004, AS INSTRUMENT NO: 360953; THE
PROVISIONS OF SUCH STIPULATION TO APPLY FULLY TO 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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance
with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a
final judgment and that the court has and does hereby direct that the above judgment or order shall be a final
judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Recommendation
Jan. 12, 2005
John M. Melanson

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

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

RIGHT NUMBER: 63-31990

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
USDA FOREST SERVICE
550 W FORT ST MSC 033
BOISE ID 83724

SOURCE: SPRING

TRIBUTARY: SINKS

QUANTITY: 0.020 CFS

Use of this right with Right No. 63-31989 is limited to a total combined diversion rate of .02 cfs and a total combined quantity of 13,000 gallons per day.

PRIORITY DATE: 04/01/1911

POINT OF DIVERSION:

T01N R10E S23 NWNW Within ELMORE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: STOCKWATER Within ELMORE County

T01N R10E S23 NWNW

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

The operation, use, and administration of this water right is also subject to the terms and conditions of the Stipulation To Resolve Subcases between McGrew Ranch LLC and the United States of America, filed in the office of the Elmore County Recorder and recorded on October 19, 2004, as Instrument No: 360953; the provisions of such stipulation to apply fully to 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 is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: Beneficial Use

This right is a split from former right 63-31459.

RECEIVED

NOV 16 2004

Instrument # 360953
Elmore County, Idaho
11:28am Oct. 19, 2004
For: US FOREST SERVICE
No. of Pages: 8 Fee: \$24.00
GAIL L. BEST, Recorder
Deputy: DLE

WATER RESOURCES
WESTERN REGION

2004 OCT 14 AM 10:48
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

Names of Parties Serving Document:

UNITED STATES OF AMERICA

McGREW RANCH LLC

Attorneys' Names and Addresses:

THOMAS L. SANSONETTI
United States Department of Justice
Assistant Attorney General
Environment and Natural Resources Division

DAVID L. NEGRI (ISB #6697)
United States Department of Justice
Environment and Natural Resources Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724
Telephone: (208) 331-5942
Facsimile: (208) 387-0842

DANIEL V. STEENSON (ISB #4332)
CHARLES L. HONSINGER (ISB #5240)
Ringier Clark Chartered
455 S. Third Street, P.O. Box 2773
Boise, ID 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657

**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 Numbers: 63-31031, 63-31459
	)	(Split #'s 63-31989 and 63-31990), 63-
	)	31460 (Split #'s 63-31991 and 63-31992)
Case No. 39576	)	
	)	STIPULATION TO RESOLVE
	)	SUBCASES
	)	

DESCRIPTIVE SUMMARY

This document is the Stipulation to Resolve Subcases, filed by McGrew Ranch LLC
("McGrew") and the United States of America ("United States").

STIPULATION

McGrew and the United States (Collectively "Parties") by and through their respective undersigned counsel, hereby stipulate and agree as follows as to the above captioned water right numbers.

1. WITHDRAWAL OF OBJECTIONS BY UNITED STATES. The United States agrees to dismiss with prejudice its objections to water right numbers 63-31031, 63-31459 and 63-31460. The Parties agree and stipulate that the elements of each water right listed should be decreed as described below.

2. WATER RIGHT DESCRIPTIONS. The Parties agree and stipulate that water right claim numbers 63-31031, 63-31459 and 63-31460 shall be decreed consistent with the following provision, as well as all remaining provisions in this Stipulation:

Claim number 63-31031. The point of diversion and place of use in the NWNE of Section 22, T1N, R10E shall be deleted from the water right description. The resulting water right is wholly on private land and should be decreed to McGrew.

Claim numbers 63-31459 and 63-31460. These water rights shall be split between McGrew and the United States. Claim number 63-31459 shall be split and renumbered as 63-31989 to McGrew and 63-31990 to the United States. Claim number 63-31460 shall be split and renumbered as 63-31991 to McGrew and 63-31992 to the United States. As a result of the splits, 63-31459 and 63-31460 should be disallowed.

Purpose and Place of Use of Water Rights. The Parties agree that the purpose of use of water right numbers 63-31989, 63-31990, 63-31991 and 63-31992 is only for the

watering of livestock lawfully within a permitted federal grazing allotment and that the number of livestock within the allotment shall not exceed the amount authorized by a federal grazing permit. The Parties further agree that the place of use of water right numbers 63-31989, 63-31990, 63-31991 and 63-31992 shall remain *in situ*.

3. CONFORMING DOCUMENTS. The Parties agree that they will execute and file any necessary documents with the SRBA Court and IDWR to conform the elements of water right claim numbers 63-31031, 63-31989, 63-31990, 63-31991 and 63-31992 to the provisions described in this Stipulation.

4. GRAZING PERMITS AND MANAGEMENT OF FEDERAL LANDS. The Parties agree that water right numbers 63-31989, 63-31990, 63-31991 and 63-31992 shall not alter the rights of a permittee under a valid grazing permit nor impede the authority of the United States to manage federal lands.

5. UNITED STATES' PERMITTING ACTION. McGrew agrees that the imposition of terms and conditions by any federal authority on any grazing permit, or any action by any federal authority to limit, modify, revoke, or terminate any grazing permit, and any consequent limitation or elimination of the ability of McGrew or any successor thereto to divert, store, or use water, shall not be construed to be a taking, in whole or in part, of any water right.

6. NO FURTHER CLAIMS. McGrew agrees that they will not file additional claims in the SRBA for water rights where the place of use or point of diversion is located on federal lands and the United States agrees that it will not file additional claims in the SRBA for water rights where the place of use or point of diversion is located on federal lands underlying the federal Grazing Allotments on which McGrew is the grazing permittee, except by agreement between the

United States and McGrew. This paragraph shall not affect or apply to any claims already filed in the SRBA by any Party as of the effective date of this Stipulation.

7. ISSUANCE OF PARTIAL AND FINAL DECREES BY THE COURT. If for any reason the Court does not issue partial and final decrees for any of water rights numbers 63-31031, 63-31989, 63-31990, 63-31991 and 63-31992 pursuant to the terms of this Stipulation, this Stipulation is null and void and shall have no effect, and the Parties shall proceed with a determination of their water rights and/or objections under applicable law.

8. STIPULATION NOT TO BE USED AGAINST THE PARTIES. The Parties agree that this Stipulation has been entered into based upon good faith negotiations for the purpose of resolving legal disputes, including pending litigation, by compromise and settlement and that nothing in this Stipulation, or any offers or compromises made in the course of negotiating this Stipulation, shall be construed as admissions against interest or tendered or used as evidence to show the validity or invalidity of any water right claims made by the Parties, or as an admission or concession of wrongdoing or liability, or shall be used in any manner by any party in the SRBA in any future proceedings in the SRBA, in any appellate proceedings concerning the SRBA, or in any other proceeding, other than those seeking approval of this Stipulation by the SRBA Court, for interpretation or enforcement of this Stipulation, or for a purpose contemplated by Idaho Rule of Evidence 408.

9. RESERVATIONS. The Parties agree that this Stipulation has been entered into based upon good faith negotiations for the purpose of resolving legal disputes, including pending litigation, by compromise and settlement and that nothing herein shall be construed as precedent in any other proceeding or context. Nothing in this Stipulation shall be construed to deprive any

federal official of authority to revise, amend, or promulgate regulations. Nothing in this Stipulation shall be construed to commit any federal official to expend funds not appropriated by Congress.

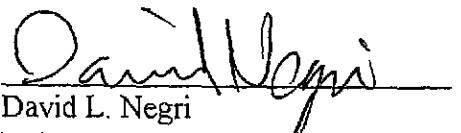
10. VOLUNTARY EXECUTION. This Stipulation was entered into and executed voluntarily by the Parties in good faith, and without any fraud, misunderstanding, overreaching, misrepresentation, duress, or undue influence.

11. BINDING EFFECT. This Stipulation shall be binding on any and all successors, assigns, heirs, executors, and administrators of each of the Parties.

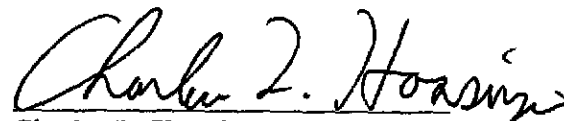
12. COSTS AND ATTORNEY FEES. Each Party shall bear their own costs and attorney fees.

13. EFFECTIVE DATE. This Stipulation shall become effective upon execution by all of the Parties.

DATED this 13th day of October, 2004.


David L. Negri
United States Department of Justice

Attorney for the United States of America

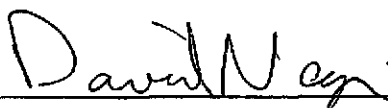

Charles L. Honsinger
Ringert Clark Chartered

Attorney for McGrew Ranch LLC

State of Idaho)
) ss.
County of Ada)

DAVID L. NEGRI, duly sworn, upon oath, deposes and says:

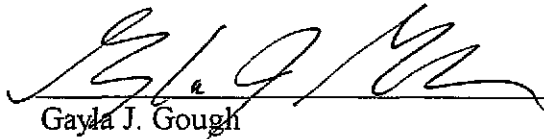
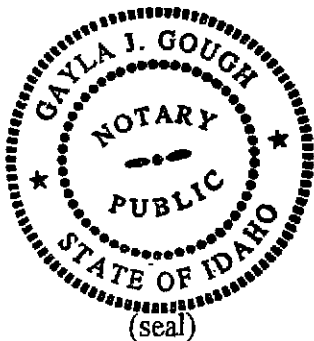
That I am the party filing this Stipulation, and/or that I am the attorney for the party, and that I have read this Stipulation, know its contents and believe that the statements are true to the best of my knowledge.



David L. Negri
United States Department of Justice
Environment and Natural Resources Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724
(208) 331-5943

Counsel for the United States of America

Subscribed and sworn before me on: Oct 13, 2004



Notary Public for: Gayla J. Gough
Residing at: Idaho
Commission expires: Kuna, Idaho
11-17-2004

State of Idaho)
) ss.
County of Ada)

CHARLES L. HONSINGER [and/or McGrew Ranch], duly sworn, upon oath, deposes and says:

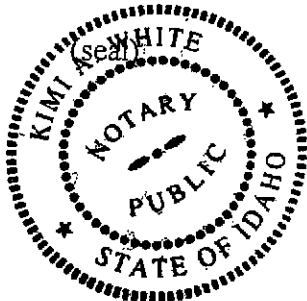
That I am the party filing this Stipulation, and/or that I am the attorney for the party, and that I have read this Stipulation, know its contents and believe that the statements are true to the best of my knowledge.

Dated 10/11/04

Charles L. Honsinger
Charles L. Honsinger
Ringert Clark Chartered
455 S. Third Street, P.O. Box 2773
Boise, ID 83701-2773
(208) 342-4591

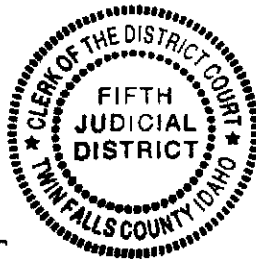
Subscribed and sworn before me on: October 11, 2004

Kimi A. White
(name of notary)
Notary Public for: Idaho
Residing at: Boise, Idaho
Commission expires: 04/04/10



State of Idaho
County of Twin Falls ss.
I hereby certify the foregoing to be a full, true and correct copy of the original on file in the above entitled action.

KRISTINA GLASCOCK
CLERK OF THE DISTRICT COURT
By Julie Murphy
Deputy Clerk



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13 day of October, 2004, I served a true and correct copy of the foregoing **STIPULATION AND JOINT MOTION FOR ORDER APPROVING STIPULATION**, by depositing a copy thereof in the U.S. mail, postage prepaid, or by other service where indicated, upon the following:

Original to:

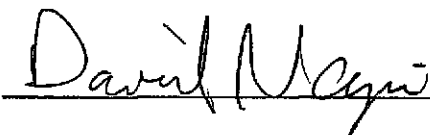
Clerk of the Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, ID 83303-2707

Copies to:

U.S. Department of Justice	Chief, Natural Resources Division
General Litigation Section	Office of the Attorney General
Environment and Natural Resource Division State of Idaho	
550 West Fort Street, MSC 033	P.O. Box 44449
Boise, ID 83724	Boise, ID 83711-4449

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

Charles L. Honsinger
Ringert Clark Chartered
455 S. Third Street, P.O. Box 2773
Boise, ID 83701-2773



David Negri

Harris, Lori

From: Steven M Spencer [sspencer@fs.fed.us]
Sent: Tuesday, October 19, 2004 2:33 PM
To: lharris@idwr.state.id.us
Cc: bharvey@idwr.state.id.us; david.negri@usdoj.gov; Jamie Gough; jshurte@idwr.state.id.us
Subject: McGrew



McGrew 63-31989
split.doc



USFS 63-31990
split.doc



McGrew 63-31991
split.doc



USFS 63-31992
split.doc

I recorded the Settlement Stipulation in Mountain Home this morning. As we had previously finished up the water right descriptions for the "split" water rights there was a blank for the date and a blank for the instrument number the needed to be filled in on them. The information for each water right is the same. The date of recording is October 19, 2004 and the instrument number is 360953. The descriptions as I received them the last time from the Department are attached. I've also filled in the two blanks.

We've been sharing information with Charlie Honsinger. The last information we received is that McGrew Ranch LLC's address has been changed by the Post Office from the old rural route to a rural street address that is more conducive for local fire, ambulance and law enforcement locating. I remember this happening throughout Lost River when I was in Mackay. The old address of Rt 1, Box 463 needs to be changed to 15600 NE Hot Creek Road, if it is at all possible at this stage. I did not make this address change on the attachments for 63-31989 and 63-31991 because that would be your decision. If you determine to allow this address change, then the water right description for 63-31031 should also be changed accordingly.

When you get this information entered into your computer system for each water right description, would you please e-mail them back to me? Then I'll print them so they can be included with the individual SF5's and begin circulating final documents for signature and filing with the court. Thank you. If you have any questions about this matter please contact me.

(See attached file: McGrew 63-31989 split.doc) (See attached file: USFS 63-31990 split.doc) (See attached file: McGrew 63-31991 split.doc) (See attached file: USFS 63-31992 split.doc)

Steve Spencer
Boise Adjudication Team
161 E. Mallard, Suite A
Boise, ID 83706

(208) 331-5944
(208) 387-0842 FAX
e-mail: sspencer@fs.fed.us

Draft

**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. <u>63-31459</u>
	)	(split claim nos. 63-31989 and 63-31990)
	)	
Case No. 39576	)	Standard Form 5
	)	
	)	AMENDED CLAIM
	)	FOR DOMESTIC & STOCKWATER RIGHTS
	)	

This form is used to report the stipulated elements of one "domestic and/or stockwater" right acquired under state law and/or one federal reserved water right and to amend the Notice of Claim. 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 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 the resulting water rights should be described per the attached. The parties and IDWR agree and stipulate that this claim shall be "split" into two claims, claim numbers 63-31989 and 63-31990, and the use of these claims will be limited to a total combined diversion rate of .02 cfs and a total combined quantity of 13,000 gallons per day. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages. The parties and IDWR further agree and stipulate that water right 63-31459 should be disallowed.

CLAIMANT:

Mc Grew Ranch LLC

John Mc Grew Date

IDWR CONCURRENCE:

Jan Shurte Date

OBJECTOR:

United States on behalf of the
USDA Forest Service

David L. Negri Date

ATTORNEY FOR IDWR:

Date

CERTIFICATE OF MAILING

I certify that on October ____, 2004, I mailed the original and copies of this form, including all attachments, 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, ID 83303-2707

2. Copy to:

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

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

3. Copies to all parties to the subcase (insert names and addresses here):

Charles L. Honsinger
Ringert Clark Chartered
P.O. Box 2773
Boise, ID 83701-2773

David L. Negri

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

Right Number: 63-31990

Name and Address: United States of America
USDA Forest Service
550 West Fort Street, MSC 033
Boise, ID 83724

Source: SPRING Tributary: SINKS

Quantity: .02 CFS

THIS WATER RIGHT SHALL BE USE IN CONJUNCTION WITH RIGHT NO. 63-31989 AND IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF .02 CFS AND A TOTAL COMBINED QUANTITY OF 13,000 GALLONS PER DAY.

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.

Priority Date: 04-01-1911

Diversion Point: T01N R10E S23 NWNW Within Elmore County

Purpose and

Period of Use:	Purpose of Use	Period of Use	Quantity
	Stockwater	01-01 TO 12-31	.02 CFS

Place of Use:	Stockwater	Within Elmore County
	T01N R10E S23	NWNW

Other Provisions Necessary for Definition / 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 IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

THE OPERATION, USE, AND ADMINISTRATION OF THIS WATER RIGHT IS ALSO SUBJECT TO THE TERMS AND CONDITIONS OF THE STIPULATION AND JOINT MOTION FOR MOTION FOR ORDER APPROVING STIPULATION ENTERED INTO ON "DATE", 2004, BETWEEN MCGREW RANCH LLC AND THE UNITED STATES OF AMERICA, FILED IN THE OFFICE OF THE ELMORE COUNTY RECORDER AND RECORDED ON "DATE", AS INSTRUMENT NO: ; THE PROVISIONS OF SUCH STIPULATION TO APPLY FULLY TO THIS WATER RIGHT.

Explanatory Material: Basis of Claim - Beneficial Use

Shurte, Jan

From: Shaff, Don
Sent: Monday, September 20, 2004 8:55 AM
To: Harvey, Becky; Shurte, Jan; Spencer, Nick
Subject: RE: Splits

The DeVenys' settlements were early in the process when the stockwater settlements were coming fast and furious. IDWR relented for those specific cases as an exception IDWR does not intend to repeat. Any divisions of reported (recommended) rights create new water right descriptions that necessitate new numbers for the splits. This approach reduces the workload at IDWR for several staff and reduces confusion in the future for the path from recommended rights to decrees issued by the Court. If the USFS would like IDWR to contact McGrew about the settlement, that could be done.

Thanks,
Don Shaff
dshaff@idwr.state.id.us
208-327-7932

-----Original Message-----

From: Harvey, Becky
Sent: Friday, September 17, 2004 10:34 AM
To: Shurte, Jan; Spencer, Nick; Shaff, Don
Subject: FW: Splits

-----Original Message-----

From: Steven M Spencer [mailto:sspencer@fs.fed.us]
Sent: Friday, September 17, 2004 9:18 AM
To: bharvey@idwr.state.id.us
Subject: Splits

With respect to the proposed McGrew water right splits resulting from a recent settlement agreement, this is identical other similar cases we've had where only one party (either the FS or permittee) filed a claim and the other party objected to the recommendation. The settlement agreement called for the water right to be split between the two parties and both water rights to have conjunctive use language appear on the face of the water right description that accompanied the SF5. These were subsequently decreed by the Court as they appeared in the SF5.

One situation I remember is with DeVenys' in Basin 78 with the big stockwater settlement. Out of about 35 objections there were 6 cases where the FS had claims to locations where the DeVenys' did not. So FS claims were split to give DeVenys' a claim to the same source. This was the case with FS claim nos. 78-04224 (78-12180), 78-04249 (78-12181), 78-10629 (78-12182), 78-10630 (78-12183), 78-12010 (78-12184), and 78-10656 (78-12185). And exactly the opposite where DeVenys' had claims to 2 sources 78-10338G (78-12178) and 78-10339B (78-12179) where the FS had filed no claim.

The "split" resulted in a new number, shown above in parenthesis. The new numbers are consecutive regardless of which party had the original claim. So this all happened at the same time for settlement with DeVenys. Jamie handled this for us. It was an accepted way to finish the business at that time. McGrew also wanted something similar to the "stockwater settlement". Consequently a similar stipulation was agreed upon and this is what prompted the proposed splits you have in front of you today for the McGrew cases. I recall some other splits under similar terms with other permittees, but my memory isn't quite as clear and I'd have to research further for other examples.

Please contact me if there is anything else I can do to help this along. Thank you.

Steve Spencer
Boise Adjudication Team
161 E. Mallard, Suite A
Boise, ID 83706

(208) 331-5944
(208) 387-0842 FAX
e-mail: sspencer@fs.fed.us

04/01/2002

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

RIGHT NUMBER: 63-31459

NAME AND ADDRESS: MC GREW RANCH LLC
RT 1 BOX 463
GLENN'S FERRY ID 83623

SOURCE: SPRING

TRIBUTARY: SINKS

QUANTITY: 0.02 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 04/01/1911

POINT OF DIVERSION:

T01N R10E S23 NWNW Within ELMORE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: STOCKWATER Within ELMORE County

T01N R10E S23 NWNW

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 IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: Beneficial Use