



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

November 10, 2008

Ray W. Rigby
25 N. 2nd E.
P.O. Box 250
Rexburg, ID 83440-0250

*RE: SRBA Subcase Nos. 22-180A, 22-365, 22-575A & 22-2057
(Zohner)*

Dear Mr. Rigby:

I am enclosing a Standard Form 5 ("SF5") for each of the above-referenced subcases. Please review the documents, and if they are acceptable, please sign on the indicated signature lines and initial the revised recommendations. After signature, please return the original documents to me, and I will file the SF5s with the SRBA Court.

If you should have any questions or comments, please feel free to contact Michael Holliday at IDWR's regional office in Idaho Falls. Michael can be reached at 525-7161.

Sincerely,

A handwritten signature in cursive script that reads "Ray Williams".

Ray Williams
Paralegal

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. 22-180A
	)	
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 this water right should be disallowed as per the attached. The parties and IDWR have further indicated their concurrence by initialing the attached page.

CLAIMANT(s):
Gary & Sherry Zohner

OBJECTOR:

Ray W. Rigby Date
Attorney for Claimant

Craig Kunz Date

IDWR Concurrence:

Michael Holliday Date
Senior Water Resource Agent

Garrick L. Baxter Date
Deputy Attorney General
Attorney for IDWR

IDAHO DEPARTMENT OF WATER RESOURCES
CLAIMS / RIGHTS NOT RECOMMENDED

<u>W.R. NUMBER</u>	<u>NAME AND ADDRESS</u>	<u>CLAIM DISPOSITION</u>	<u>REASON</u>
22-180A	GARY ZOHNER 401 W 475 S VICTOR ID 83455	Disallowed	Recommended as Right No. 22-180B.
	SHERRY ZOHNER 401 W 475 S VICTOR ID 83455		

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:

GARY ZOHNER
SHERRY ZOHNER
Represented by:
RAY W. RIGBY
25 N 2ND E
P.O. BOX 250
REXBURG, ID 83440-0250

CRAIG KUNZ
480 W 575 S
VICTOR, ID 83455

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

Signature of person or attorney mailing the form

**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. 22-365
	)	<i>Uncontested Overlapping</i>
Case No. 39576	)	<i>Water Right to 22-180A</i>
	)	
	)	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(s):
Gary & Sherry Zohner

OBJECTOR:

Ray W. Rigby Date
Attorney for Claimant

Craig Kunz Date

IDWR Concurrence:

Michael Holliday	Date
Senior Water Resource Agent	

Garrick L. Baxter	Date
Deputy Attorney General	
Attorney for IDWR	

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

RIGHT NUMBER: 22-365

NAME AND ADDRESS:

GARY ZOHNER
401 W 475 S
VICTOR ID 83455

SHERRY ZOHNER
401 W 475 S
VICTOR ID 83455

SOURCE: Source:
TETON RIVER

Tributary:
HENRYS FORK

Point of injection into and point of redirection from Paradise Creek.

QUANTITY: 2.520 CFS ~~1.980 CFS~~

This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands below.

PRIORITY DATE: 07/31/1903

POINT OF DIVERSION:

T04N R45E S20 SWNWSW Rediversion
Within TETON County

T04N R45E S20 SWNWSW Injection
Within TETON County

T04N R45E S20 NWSESW
Within TETON County

PURPOSE AND
PERIOD OF USE:

Purpose of use	Period of use:	Quantity:
IRRIGATION	04/15 10/31	<u>2.520 CFS</u> 1.980 CFS

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

PLACE OF USE: IRRIGATION within TETON County

T04N R45E S19 SENE 40.0

T04N R45E S19 NESE 37.0

T04N R45E S19 NWSE 39.0

T04N R45E S19 SESE 22.0

T04N R45E S20 SWNW 19.0

T04N R45E S20 NWSW 12.0

~~T04N R45E S19 NESE 40.0~~

~~T04N R45E S19 NWSE 40.0~~

~~T04N R45E S19 SESE 40.0~~

~~T04N R45E S20 SWNW 28.0~~

~~T04N R45E S20 NWSW 18.0~~

169 ACRES TOTAL

~~206 ACRES TOTAL~~

This right is limited to the irrigation of 126 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 169 acres in a single irrigation season. Combined Right Nos.: 22-365, 22-575A, and 22-2057.

~~This right is limited to the irrigation of 86.5 acres within the place of use described above in a single irrigation season.~~

~~The rights listed below are limited to the irrigation of a combined total of 206 acres in a single irrigation season. Combined Right Nos.: 22-180A, 22-365, 22-575A, 22-2057~~

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 - Decreed

Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 1.

The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

CERTIFICATE OF MAILING

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GARY ZOHNER
SHERRY ZOHNER
Represented by:
RAY W. RIGBY
25 N 2ND E
P.O. BOX 250
REXBURG, ID 83440-0250

CRAIG KUNZ
480 W 575 S
VICTOR, ID 83455

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

Signature of person or attorney mailing the form

**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. 22-575A
	)	<i>Uncontested Overlapping</i>
Case No. 39576	)	<i>Water Right to 22-180A</i>
	)	
	)	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(s):
Gary & Sherry Zohner

OBJECTOR:

Ray W. Rigby Date
Attorney for Claimant

Craig Kunz Date

IDWR Concurrence:

Michael Holliday	Date
Senior Water Resource Agent	

Garrick L. Baxter	Date
Deputy Attorney General	
Attorney for IDWR	

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

RIGHT NUMBER: 22-575A

NAME AND ADDRESS:

GARY ZOHNER
401 W 475 S
VICTOR ID 83455

SHERRY ZOHNER
401 W 475 S
VICTOR ID 83455

SOURCE:

Source:

PARADISE CREEK
~~PARADISE SPRING~~

Tributary:

TETON RIVER

QUANTITY:

1.000 CFS

This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands below.

PRIORITY DATE:

06/01/1892

POINT OF DIVERSION:

T04N R45E S20 SWNWSW
Within TETON County

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

IRRIGATION

04/15 10/31

1.000 CFS

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

PLACE OF USE: IRRIGATION within TETON County

T04N R45E S19 SENE 40.0

T04N R45E S19 NESE 37.0

T04N R45E S19 NWSE 39.0

T04N R45E S19 SESE 22.0

T04N R45E S20 SWNW 19.0

T04N R45E S20 NWSW 12.0

~~T04N R45E S19 NESE 40.0~~

~~T04N R45E S19 NWSE 40.0~~

~~T04N R45E S19 SESE 40.0~~

~~T04N R45E S20 SWNW 28.0~~

~~T04N R45E S20 NWSW 18.0~~

169 ACRES TOTAL

~~206 ACRES TOTAL~~

This right is limited to the irrigation of 80 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 169 acres in a single irrigation season. Combined Right Nos.: 22-365, 22-575A, and 22-2057.

~~The rights listed below are limited to the irrigation of a combined total of 206 acres in a single irrigation season. Combined Right Nos.: 22-180A, 22-365, 22-575A, 22-2057~~

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 - Decreed

Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 1.

The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

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CRAIG KUNZ
480 W 575 S
VICTOR, ID 83455

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

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**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. 22-2057
	)	<i>Uncontested Overlapping</i>
Case No. 39576	)	<i>Water Right to 22-180A</i>
	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

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CLAIMANT(s):
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Ray W. Rigby Date
Attorney for Claimant

Craig Kunz Date

IDWR Concurrence:

Michael Holliday	Date
Senior Water Resource Agent	

Garrick L. Baxter	Date
Deputy Attorney General	
Attorney for IDWR	

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

RIGHT NUMBER: 22-2057

NAME AND ADDRESS:

GARY ZOHNER
401 W 475 S
VICTOR ID 83455

SHERRY ZOHNER
401 W 475 S
VICTOR ID 83455

SOURCE:

Source:
TETON RIVER

Tributary:

HENRYS FORK

Point of injection into and point of redirection from Paradise Creek.

QUANTITY:

0.860 CFS

~~2.130 CFS~~

This right when combined with all other rights shall provide no more than
0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for
irrigation of the lands below.

PRIORITY DATE:

03/27/1911

POINT OF DIVERSION:

T04N R45E S20 SWNWSW Injection
Within TETON County

T04N R45E S20 SWNWSW Rediversion
Within TETON County

T04N R45E S20 NWSESW
Within TETON County

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

IRRIGATION

04/15 10/31

0.860 CFS

~~04/15 10/14~~

~~2.130 CFS~~

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

PLACE OF USE: IRRIGATION within TETON County

T04N R45E S19 SENE 40.0

T04N R45E S19 NESE 37.0

T04N R45E S19 NWSE 39.0

T04N R45E S19 SESE 22.0

T04N R45E S20 SWNW 19.0

T04N R45E S20 NWSW 12.0

~~T04N R45E S19 NESE 40.0~~

~~T04N R45E S19 NWSE 40.0~~

~~T04N R45E S19 SESE 40.0~~

~~T04N R45E S20 SWNW 28.0~~

~~T04N R45E S20 NWSW 18.0~~

169 ACRES TOTAL

~~206 ACRES TOTAL~~

This right is limited to the irrigation of 43 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 169 acres in a single irrigation season. Combined Right Nos.: 22-365, 22-575A, and 22-2057.

~~The rights listed below are limited to the irrigation of a combined total of 206 acres in a single irrigation season. Combined Right Nos.: 22-180A, 22-365, 22-575A, 22-2057~~

~~This right is limited to the irrigation of 106.5 acres within the place of use described above 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 - License

The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 1.

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

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