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DEPARTMENT OF  
WATER RESOURCES

DISTRICT COURT-SRBA  
Fifth Judicial District  
County of Twin Falls - State of Idaho

NOV 26 2008

COPY

By \_\_\_\_\_ Clerk  
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.: 74-1105

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/OBJECTOR:

F. James Whittaker  
Paula J. Whittaker

*F. James Whittaker* 6/23/08  
F. James Whittaker Date

*Paula J. Whittaker* 6-23-08  
Paula J. Whittaker Date

IDWR CONCURRENCE:

*Nathaniel Arave* 6/11/08  
Nathaniel Arave Date  
Water Resource Agent

IDWR CONCURRENCE:

*Christopher M. Bromley* 6/11/08  
Christopher M. Bromley Date  
Deputy Attorney General  
Attorney for IDWR

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

RIGHT NUMBER: 74-1105

NAME AND ADDRESS: F JAMES WHITTAKER  
83 BIG EIGHT MILE RD  
PO BOX 240  
LEADORE ID 83464  
  
PAULA J WHITTAKER  
83 BIG EIGHT MILE RD  
PO BOX 240  
LEADORE ID 83464

SOURCE: BIG EIGHTMILE CREEK

TRIBUTARY: LEMHI RIVER

QUANTITY: 4.000 CFS

The total instantaneous diversion of water from all points of diversion shall not exceed 4.0 cfs under right 74-1105

The right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.

This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

PRIORITY DATE: 03/25/1918

POINT OF  
DIVERSION: T15N R25E S5 NWSE Lot 10 Within LEMHI County  
T15N R25E S33 NWSW Within LEMHI County

PURPOSE AND  
PERIOD OF USE:

| <u>PURPOSE OF USE</u> | <u>PERIOD OF USE</u> | <u>QUANTITY</u> |
|-----------------------|----------------------|-----------------|
| IRRIGATION            | 3/15 11/15           | 4.000 CFS       |

PLACE OF USE: IRRIGATION in LEMHI County

|               |      |          |               |      |          |
|---------------|------|----------|---------------|------|----------|
| T16N R25E S28 | SNNW | 40.00    | T16N R25E S28 | SESW | 35.00    |
| T16N R25E S28 | NESW | 32.00 23 | T16N R25E S28 | NWSW | 40.00    |
| T16N R25E S28 | SWSW | 38.00    | T16N R25E S28 | SESW | 14.00    |
| T16N R25E S29 | SWNE | 40.00    | T16N R25E S29 | SENE | 40.00    |
| T16N R25E S29 | SNNW | 34.00    | T16N R25E S29 | SESW | 40.00    |
| T16N R25E S29 | NESW | 40.00    | T16N R25E S29 | NWSW | 18.00    |
| T16N R25E S29 | SWSW | 15.00    | T16N R25E S29 | SESW | 40.00    |
| T16N R25E S29 | NESE | 40.00    | T16N R25E S29 | NWSE | 40.00    |
| T16N R25E S29 | SWSE | 39.00    | T16N R25E S29 | SESE | 18.00    |
| T16N R25E S32 | NENE | 16.00    | T16N R25E S32 | NENW | 38.00    |
| T16N R25E S32 | NNNW | 36.00    | T16N R25E S33 | NNNW | 31.00 29 |

724 398 ACRES TOTAL

This right is limited to the irrigation of 197 acres within the place of use described above in a single irrigation season.

CB  
ULF  
FJC  
Pgw

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

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

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. 74-2.

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.

UK  
CB  
FJW  
Pape

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

Right Nos. 74-338B, 74-349, and 74-15787 are also diverted through the points of diversion described above.

Right No. 74-15787 is an enlargement of this right pursuant to Section 42-1425, Idaho Code.

The point of diversion located at NWSE, Sec 5, T15N, R25E is located within H.E.S. Lot 146.

## CERTIFICATE OF SERVICE

I certify that on Nov. 25, 2008, I caused to be served true and correct copies of this Standard Form 5, to the following persons, in the manner indicated 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

☐ Overnight Mail  
☒ Regular Mail  
☐ Hand-Delivered  
☐ Facsimile

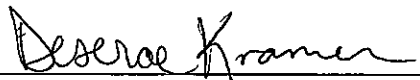
2. Copies to:

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

☐ Overnight Mail  
☐ Regular Mail  
☒ Hand-Delivered  
☐ Facsimile

F. James Whittaker  
Paula J. Whittaker  
83 Big Eight Mile Rd.  
P.O. Box 240  
Leadore, ID 83464

☐ Overnight Mail  
☒ Regular Mail  
☐ Hand-Delivered  
☐ Facsimile

  
\_\_\_\_\_  
Signature of person or attorney mailing the form