



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

January 13, 2009

David I. Stanish  
Deputy Attorney General  
Office of the Attorney General  
P.O. Box 44449  
Boise, ID 83711-4449

*Sent via Statehouse Mail*

*RE: Subcase No. 01-138 (North Rigby Irrigation & Canal Co.)*

Dear David:

I am enclosing an SF5 for the above-referenced subcase. Please review the SF5, and if it is acceptable to you, please sign on the indicated signature line and initial the recommendation and forward the original SF5 to David Gehlert. David can sign the SF5 and file it with the SRBA Court prior to the January 22 status conference.

If you should have any questions or comments, please feel free to contact me at 287-4815.

Sincerely,

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

Ray Williams  
Paralegal

Enclosure

RECEIVED

JAN 13 2009

DEPARTMENT OF  
WATER RESOURCES

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. 01-138       |
|                | ) |                          |
| 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.

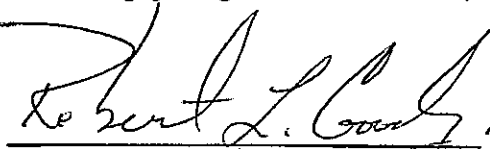
The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

**CLAIMANT:**

North Rigby Irrigation & Canal Co., Inc.

**OBJECTOR:**

Bureau of Reclamation

 1-6-9

By: \_\_\_\_\_ Date

Title: President, NRICC

David W. Gehlert

Date

Attorney for Objector

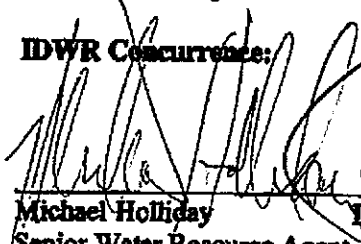
STANDARD FORM 5 – Water Right No. 01-138

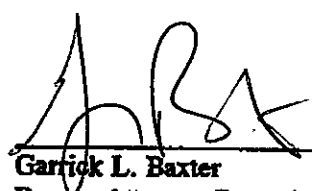
①  
1-6-9

**RESPONDENT:**  
State of Idaho

\_\_\_\_\_  
David I. Stanish                      Date  
Attorney for Respondent

**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: 1-138

NAME AND ADDRESS: NORTH RIGBY IRRIGATION & CANAL CO INC  
C/O ROBERT GOODY  
3791 E 500 N  
RIGBY ID 83442

SOURCE: <sup>1-6-9</sup>  SNARE RIVER TRIBUTORY: COLUMBIA RIVER

~~Water is delivered from the Dry-Bed.~~

Water is delivered through the Great Feeder Canal to the North Rigby Irrigation & Canal Co. point of diversion.

QUANTITY: 50.000 CFS

PRIORITY DATE: 06/10/1883

POINT OF  
DIVERSION:

TOAN RIVER SD SHAW Within JEFFERSON County

PURPOSE AND  
PERIOD OF USE:

| PURPOSE OF USE | PERIOD OF USE | QUANTITY   |
|----------------|---------------|------------|
| IRRIGATION     | 04/01 10/31   | 50.000 CFS |
| STOCKWATER     | 01/01 12/31   | 13.000 CFS |

PLACE OF USE:

1005 ACRES TOTAL

The boundary encompassing the 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 SBA 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.

Place of use is within the area served by North Rigby Irrigation & Canal Company.

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

~~Diversion of this right for stockwater purposes between November 1 and April 30 is subject to the provisions for saving winter water as recognized in the Burley Irrigation Dist. v. Eagle, Supplemental Decree (Idaho 7th Jud. Dist., July 10, 1963) and Aberdeen-Springfield Canal Co. v. Eagle, Supplemental Decree (Idaho 7th Jud. Dist., March 12, 1963).~~

<sup>1-6-9</sup>  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.

Diversion of this right is restricted to exclude 150 consecutive days during the period from November 1 through April 30 pursuant to United States Contract No. 14-06-W-43 between the United States and North

①  
1-6-9

Rigby Irrigation and Canal Company, Inc. or as such contract may be amended, unless the United States agrees in writing not to enforce the winter water savings provision of the contract for a given period of time.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Water is delivered through North Rigby Canal.

WMP  
JB

①  
9-6-9

### **CERTIFICATE OF MAILING**

I certify that on \_\_\_\_\_, 2009, 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:

NORTH RIGBY IRRIGATION & CANAL CO., INC.  
C/O ROBERT GOODY  
3791 E 500 N  
RIGBY, ID 83442

STATE OF IDAHO  
Represented by:  
NATURAL RESOURCES DIV CHIEF  
STATE OF IDAHO  
ATTORNEY GENERAL'S OFFICE  
P.O. BOX 44449  
BOISE, ID 83711-4449

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 the form