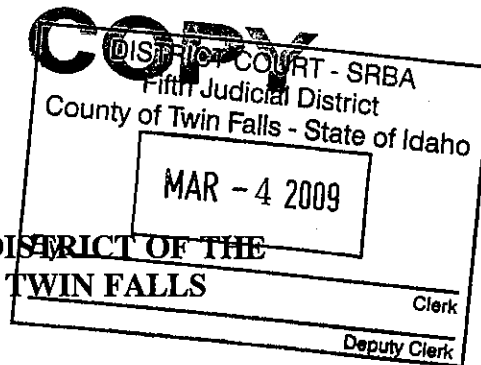


RECEIVED

MAR 05 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. 63-33068

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:

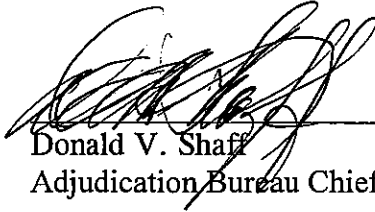
State of Idaho

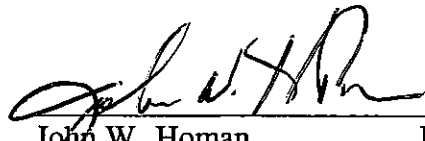
Dept. of Parks & Recreation

 3/2/2009
David J. Barber Date
Attorney for Claimant/Objector

STANDARD FORM 5 – 63-33068

IDWR Concurrence:

 2-09-09
Donald V. Shaff Date
Adjudication Bureau Chief

 2-09-09
John W. Homan Date
Deputy Attorney General
Attorney for IDWR

01/20/2009

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

RIGHT NUMBER: 63-33068

NAME AND ADDRESS: STATE OF IDAHO
DEPT OF PARKS AND REC STATEHOUSE MAIL
PO BOX 83720
BOISE ID 83720-0065



SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 1.520 CFS

This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 06/01/1864

POINT OF
DIVERSION:

T04N R01E S16 SESWSW Within ADA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USEPERIOD OF USEQUANTITY

IRRIGATION

03/01 11/15

1.520 CFS

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE: IRRIGATION in ADA County

T04N R01E S18 Lot 3	~~NENW~~ 9.00	24.60	T04N R01E S18 Lot 4	~~NWNW~~ 34.70	10.40
~~T04N R01E S18 Lot 4~~	~~NWNW~~	35.60	~~T04N R01E S18 Lot 3~~	~~SENW~~	29.50
T04N R01E S18	NESW	28.10	T04N R01E S18	<u>Lot 5</u> NWSW	35.50
T04N R01E S18	<u>Lot 11</u> SWSW	30.50	T04N R01E S18	<u>Lot 10</u> SESW	19.80
T04N R01W S13	<u>Lot 6</u> ~~NENE~~ 25.00	2.30	T04N R01W S13	<u>Lot 7</u> ~~NWNE~~ 15.60	4.20
~~T04N R01W S13~~	~~SWNE~~	23.30	~~T04N R01W S13~~	~~SENE~~	17.80
T04N R01W S13	NESE	36.80	T04N R01W S13	NWSE	35.80
T04N R01W S13	SWSE	23.50	T04N R01W S13	<u>Lot 8</u> SESE	37.50
T04N R01W S24	<u>Lot 1</u> NENE	3.30	T04N R01W S24	<u>Lot 2</u> NWNE	7.70

449 300 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 449 acres in a single irrigation season. Combined Right Nos.: 63-134, 63-33068, 63-33070.

The rights listed below are limited to the irrigation of a combined total of 300 acres in a single irrigation season. Combined Right Nos.: 63-33068, 63-33070.

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

~~WATER IS DELIVERED THROUGH THE MASON CATLIN CANAL~~

WATER IS DELIVERED THROUGH THE MACE CATLIN CANAL

THE FOLLOWING RIGHTS ARE DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 63-33067, 63-33068, 63-33069, 63-33070, 63-382B, 63-31312, 63-31313.

This right is a split from former right 63-132.

DESIGNATED AS RIGHT NO 5 IN THE STEWERT DECREE AND THE BOISE RIVER WATER MASTERS RECORDS

A handwritten signature in black ink, appearing to be 'J. H. Smith' or similar, written in a cursive style.Handwritten initials 'DJB' in black ink, written in a stylized, slanted cursive font.

CERTIFICATE OF MAILING

I certify that on March 3, 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:

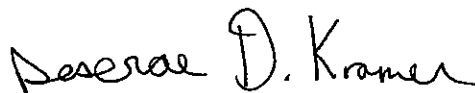
1. Original to:

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:

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

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



Signature of person or attorney mailing the form