



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

April 24, 2009

Jeanette Wolfley
Special Counsel
Shoshone-Bannock Tribes
202 N. Arthur
Pocatello, ID 83202

RE: SRBA Subcase Nos. 27-2049, 27-11009, 27-11010, 27-11729, 27-11897, 27-11996, 27-12117, 27-12120, 27-12123, 27-12124, 27-12127, 27-12129, 27-12130, 27-12131, 27-12132, 27-12133, 27-12134 & 27-12135

Dear Jeanette:

I am enclosing SF5s and Stipulations to Resolve Objections for the above-referenced water right. Please review the documents, and if they are acceptable, please sign on the indicated signature lines and initial the revised recommendations. After signature, please circulate the documents to the other parties for signature and return the original documents to me. I will obtain the signatures for IDWR and file the SF5s and Stipulations with the SRBA Court.

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

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. 27-11009
	)	
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(s):
Florian & Opal Wernette

OBJECTOR:
Shoshone-Bannock Tribes

Jerry R. Rigby Date
Attorney for Claimants

Jeanette Wolfley Date
Attorney for Objector

RESPONDENT:

State of Idaho

David J. Barber 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: 27-11009

NAME AND ADDRESS:

FLORIAN WERNETTE
494 N 600 E
FIRTH ID 83236

OPAL WERNETTE
494 N 600 E
FIRTH ID 83236

SOURCE: Source:
GROUND WATER

Tributary:

QUANTITY: 0.090 CFS

~~0.240 CFS~~

The quantity of water under this right shall not exceed 13,000 gallons per day.

The rights listed below are limited to a total combined annual diversion volume of 14.33 af for stockwater. Combined Right Nos.: 27-11009, 27-11010, and 27-11011.

PRIORITY DATE: 03/07/1910

POINT OF DIVERSION:

T02S R36E S12 NENENE
Within BINGHAM County

PURPOSE AND
PERIOD OF USE:

Purpose of use:

Period of use:

Quantity:

STOCKWATER

01/01 12/31

0.090 CFS 14.33 AFY

~~0.240 CFS~~

DOMESTIC

01/01 12/31

0.040 CFS

Domestic use is for 1 home.

PLACE OF USE:

STOCKWATER within BINGHAM County
T02S R36E S12 NENE

DOMESTIC within BINGHAM County
T02S R36E S12 NENE

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

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 for domestic use is not a determination of historical beneficial use.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Stockwater use is for 400 cow/calf pairs and 400 yearlings.

~~1000 CATTLE RP 0422400~~

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:

SHOSHONE-BANNOCK TRIBES
Represented by:
JEANETTE WOLFLEY
SPECIAL COUNSEL
SHOSHONE-BANNOCK TRIBE
202 N. ARTHUR
POCATELLO, ID 83202

STATE OF IDAHO
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

FLORIAN WERNETTE
OPAL WERNETTE
Represented by:
JERRY R. RIGBY
25 N 2ND E
P.O. BOX 250
REXBURG, ID 83440-0250

Signature of person or attorney mailing the form