



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

May 15, 2009

Peter C. Monson
Environment & Natural Resource Division
U.S. Department of Justice
1961 Stout Street, 8th Floor
Denver, CO 80294

RE: Subcase No. 27-11016 (Preston R. Allen & Sons Partnership)

Dear Peter:

I am enclosing a *Stipulation to Resolve Objection* for the above-referenced subcase. Please review the *Stipulation*, and if it is acceptable to you, please sign on the indicated signature line, initial the recommendation and return the original document to me. I will obtain the remaining signatures and file the *Stipulation* with the SRBA Court.

If you should have any questions or comments, please feel free to contact me at (208) 287-4815.

Sincerely,

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

Ray Williams
Paralegal

Enclosure

**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

Case No. 39576

Subcase No. 27-11016

**STIPULATION TO RESOLVE
OBJECTIONS**

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 claimant and IDWR agree and stipulate that the elements of this water right should be described per the attached and that this stipulation resolves the objections to the quantity of the stockwater component of this water right. **The parties and IDWR acknowledge that the objections to the Director's Report filed by the Shoshone-Bannock Tribe and the Bureau of Indian Affairs concerning an annual irrigation diversion volume are still outstanding.** The parties and IDWR have further indicated their concurrence by initialing the attached page.

CLAIMANT:

Preston R. Allen & Sons Partnership

By: Kent P. Allen 4-20-09
Date
Title: Partner

OBJECTORS:

Peter C. Monson, USDOJ Date
Attorney for BIA

Jeanette Wolfley 4/16/09
Jeanette Wolfley Date
Attorney for Shoshone-Bannock Tribes

RESPONDENT:

David J. Barber 5/13/2009
David J. Barber Date
Attorney for State of Idaho

Jerry R. Rigby 5-1-09
Jerry R. Rigby Date
Attorney for Committee of Nine

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: 27-11016

NAME AND ADDRESS: PRESTON R ALLEN & SONS PARTNERSHIP
1744 CEDAR VIEW RD
SODA SPRINGS ID 83276

SOURCE: BLACKFOOT RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 27.200 CFS

The rights listed below are limited to a total combined diversion rate of 27.2 cfs. Combined Right Nos.: 27-11016, 27-12027 and 27-10096.

The rights listed below are limited to a total combined annual diversion volume of 9.17 af for stockwater. Combined Right Nos.: 27-11016, 27-12000, and 27-12004.

PRIORITY DATE: 11/01/1886

POINT OF
DIVERSION:

T07S R43E S26 SWNESE Within CARIBOU County

T07S R43E S26 SWNESE Within CARIBOU County

~~T07S R43E S26 SENESE Within CARIBOU County~~

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE:	PERIOD OF USE:	QUANTITY:
IRRIGATION	04/15 07/01	27.200 CFS
STOCKWATER	04/15 07/01	0.040 CFS
		<u>2.400 AFY</u>

PLACE OF USE: IRRIGATION in CARIBOU County

T07S R43E S26	SWSW	28.00	T07S R43E S26	SESW	17.00
T07S R43E S26	NESE	0.60	T07S R43E S26	SWSE	31.00
T07S R43E S26	SESE	11.00	T07S R43E S27	SWNE	8.00
T07S R43E S27	SENW	2.00	T07S R43E S27	NESW	7.00
T07S R43E S27	SWSW	4.50	T07S R43E S27	SESW	37.00
T07S R43E S27	NESE	2.40	T07S R43E S27	NWSE	13.00
T07S R43E S27	SWSE	24.00	T07S R43E S27	SESE	39.00
T07S R43E S34	NENE	40.00	T07S R43E S34	NWNE	40.00
T07S R43E S34	SWNE	40.00	T07S R43E S34	SENE	39.00
T07S R43E S34	NENW	40.00	T07S R43E S34	NWNW	31.00
T07S R43E S34	SENW	40.00	T07S R43E S34	NESW	30.00
T07S R43E S34	NESE	15.00	T07S R43E S34	NWSE	20.00

Stipulation

27-11016

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

T07S R43E S34	SWSE	19.00	T07S R43E S34	SESE	40.00
T07S R43E S35	NWNE	20.00	T07S R43E S35	SWNE	25.00
T07S R43E S35	NENW	22.00	T07S R43E S35	NWNW	27.00

T07S R43E S35	SWNW	19.00	T07S R43E S35	SENW	37.00
T07S R43E S35	NESW	40.00	T07S R43E S35	NWSW	32.00
T07S R43E S35	SWSW	40.00	T07S R43E S35	SESW	34.00
T07S R43E S35	NWSE	23.00	T07S R43E S35	SWSE	15.00
T08S R43E S02 Lot 3	NENW	6.50	T08S R43E S02 Lot 4	NWNW	35.00
T08S R43E S03 Lot 1	NENE	27.00			

STOCKWATER same as IRRIGATION

1021 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 1021 acres in a single irrigation season. Combined Right Nos.: 27-11016, 27-12027, and 27-10096.

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

This right is a combination of old Right Nos. 27-32, 27-42, 27-43 and 27-44.

Stockwater use is for 500 cow/calf pairs.

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



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

UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC O33
BOISE, ID 83724

COMMITTEE OF NINE
Represented by:
BARKER, ROSHOLT & SIMPSON LLP
113 MAIN AVE W, STE 303
P.O. BOX 485
TWIN FALLS, ID 83303-0485

COMMITTEE OF NINE

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

PRESTON R. ALLEN & SONS
PARTNERSHIP
2601 E 300 S
DECLO, ID 83323

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

Signature of person or attorney mailing the form