

COPY

RECEIVED

JUN 11 2009

DEPARTMENT OF
WATER RESOURCES

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

JUN - 8 2009

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

By _____ Clerk
Deputy Clerk

In Re SRBA

Case No. 39576

Subcase Nos. 02-10209

STANDARD FORM 5

STIPULATED ELEMENTS OF A
WATER RIGHT

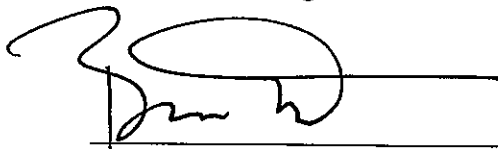
This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary 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:

Mark McDonough



Bruce Smith, Attorney

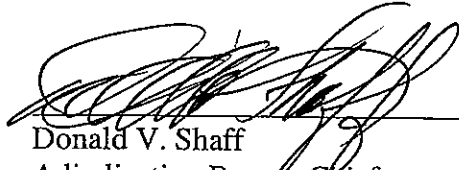
On behalf of the Claimants/Objectors

6/3/09

Date

STANDARD FORM 5 - 02-10209

IDWR Concurrence:


Donald V. Shaff
Adjudication Bureau Chief
6/4/09
Date


Garrick Baxter
Deputy Attorney General
6/4/09
Date

Bay
6/3/09

CERTIFICATE OF MAILING

I certify that on 6/5, 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:

MARK MC DONOUGH
Represented by:
BRUCE M. SMITH
950 W BANNOCK STE 520
BOISE, ID 83702

MARK MC DONOUGH
Represented by:
CARL J WITHROE
950 W BANNOCK ST STE 520
BOISE, ID 83702

MARK A MC DONOUGH
PO BOX 74
MELBA, ID 83641

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098



Signature of person or attorney mailing the form

6/3/09
Bry

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

RIGHT NUMBER: 2-10209

NAME AND ADDRESS: MARK A MC DONOUGH
PO BOX 74
MELBA ID 83641

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 0.220 CFS
36.80 AFY

~~USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 90.24 CFS. COMBINED RIGHT NOS.: 2-103, 2-4021,
AND ALL PARTS OF BASE RIGHT 2-2209 INCLUDING 2-2209B, 2-2209C,
2-2209E, 2-10187, 2-10189, 2-10191, 2-10196, 2-10208, & 2-10209.~~

The total instantaneous diversion of water from all points of diversion under Right 2-10209 shall not exceed 0.22 cfs, nor total combined annual volume of 36.8 af.

PRIORITY DATE: 02/25/1963

POINT OF
DIVERSION:

T01N R02W S31 SESWSW Lot 4 Within CANYON County
T01S R02W S6 NWSE Lot 2 Within CANYON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/01 10/31

0.220 CFS
36.80 AFY

The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of the originating approval.

PLACE OF USE: IRRIGATION in CANYON County

T01N R02W S31 Lot 5 SESW 5.00 T01S R02W S05 Lot 4 NWNW 2.00
T01S R02W S06 Lot 4 NENE 4.00

11 ACRES TOTAL

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 - License

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF
DIVERSION LOCATED AT T01S R02W SEC 6 LOT 2 (NWSE): 2-2240,
2-2431, AND 2-10209.

For
6/3/09

~~The right holder shall accomplish the change authorized by this transfer
within one (1) year of the date of this approval.~~

After specific notification by the Department, the right holder shall measure
the diversion or shall enter into an agreement with the Department to
determine the amount of water diverted from power records and shall
annually report the information to the Department.

Prior to diversion of water under this approval, the right holder shall provide
a means of measurement acceptable to the Department from all authorized
points of diversion which will allow determination of the total rate of
diversion.

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 2-10195.

Failure of the right holder to comply with the conditions of Transfer No.
69980 is cause for the Director to rescind approval of the transfer.

This right when combined with all other rights shall provide no more than
0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for
irrigation of the lands above.

87

For
6/3/09