



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

June 17, 2009

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

RE: Subcase No. 27-12108 (Smith-Maxwell Ditch Co.)

Dear Jeanette:

I am enclosing a *Stipulation to Resolve Objection* for the above-referenced water right. If the Stipulation is acceptable, please sign, initial the revised recommendation and forward the Stipulation to the parties with a request that they return the signed Stipulation to me. I'll obtain the remaining signature and file it 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

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	)	Subcase No. 27-12108
	)	
Case No. 39576	)	
	)	STIPULATION TO RESOLVE
	)	OBJECTION
	)	

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 and that this stipulation resolves the objections to the quantity of the stockwater component of this water right to the Director's Report. **The parties and IDWR acknowledge that the objections to the Director's Report filed by the Shoshone-Bannock Tribe concerning an annual irrigation diversion volume, source and the place of use, and the Bureau of Indian Affairs objections concerning allowance of this water right, along with the Bureau of Land Management's objection to the place of use are still outstanding.** The parties and IDWR have further indicated their concurrence by initialing the attached pages.

CLAIMANT:
Smith-Maxwell Ditch Co.

Layne Hamilton	Date
Title:	

OBJECTORS:

Peter C. Monson, USDOJ Date
Attorney for BIA

Jeanette Wolfley Date
Attorney for Shoshone-Bannock Tribes

David L. Negri, USDOJ Date
Attorney for BLM

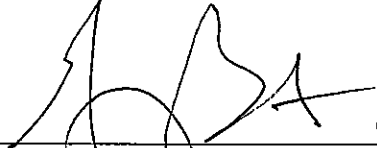
RESPONDENTS:

David J. Barber Date
Attorney for State of Idaho

Jerry R. Rigby Date
Attorney for Committee of Nine

IDWR Concurrence:

Michael Holliday Date
Senior Water Resource Agent

 6/17/09

Garrick L. Baxter Date
Deputy Attorney General
Attorney for IDWR

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

RIGHT NUMBER: 27-12108

NAME AND ADDRESS:

SMITH-MAXWELL DITCH CO
C/O LAYNE HAMILTON
839 W RIVERTON RD
BLACKFOOT ID 83221

SOURCE:

Source:
BLACKFOOT RIVER

Tributary:
SNAKE RIVER

QUANTITY:

13.900 CFS

~~13.440 CFS~~

Right Nos. 1-10058 and 27-12108 are limited to a total combined diversion rate of 13.9 cfs.

~~Right Nos. 1-10058 and 27-12108 are limited to a total combined diversion rate of 13.44 cfs.~~

PRIORITY DATE: 06/07/1929

POINT OF DIVERSION:

T03S R34E S23 SWSWSW
Within BINGHAM County

PURPOSE AND
PERIOD OF USE:

Purpose of use:

Period of use:

Quantity:

IRRIGATION

04/01 10/15

13.900 CFS

~~13.440 CFS~~

STOCKWATER

10/15 12/15

~~03/15 12/15~~

0.140 CFS

1.40 AFY

PLACE OF USE:

695 ACRES TOTAL

~~672 ACRES TOTAL~~

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

The rights listed below are limited to the irrigation of a combined total of 695 acres in a single irrigation season. Combined Right Nos.: 27-12108 and 1-10058.

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 SRBA 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 Smith-Maxwell Ditch Company.

~~The rights listed below are limited to the irrigation of a combined total of 672 acres in a single irrigation season. Combined Right Nos.: 27-12108 and 1-10058.~~

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.

~~Rights have also been claimed to water from Basin 01 for the same purpose of use at the same place of use described above, which will be included in a Directors Report to be filed at a later date. Any water rights recommended in the Basin 01 report for the same purpose of use at the same place of use described above will contain combined use limitations for this right and the Basin 01 rights.~~

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Stockwater use is for 600 range cattle.

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 033
BOISE, ID 83724

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

COMMITTEE OF NINE

Represented by:

BARKER, ROSHOLT & SIMPSON LLP

113 MAIN AVE W., STE. 303

P.O. BOX 485

TWIN FALLS, ID 83303-0485

SMITH-MAXWELL DITCH CO

C/O LAYNE HAMILTON

839 W. RIVERTON RD.

BLACKFOOT, ID 83221

COMMITTEE OF NINE

Represented by:

RAY W. RIGBY

25 N 2ND E

P.O. BOX 250

REXBURG, ID 83440-0250

Signature of person or attorney mailing the form