



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

September 2, 2009

Smith-Maxwell Ditch Company
ATTN: Layne Hamilton
939 W. Riverton Road
Blackfoot, ID 83221

RE: SRBA Subcase No. 01-10058 (Smith-Maxwell Ditch Co.)

Dear Mr. Hamilton:

I am enclosing a Standard Form 5 ("SF5") for the above-referenced subcase. The SF5 is the document required by the Snake River Basin Adjudication ("SRBA") Court to resolve water right disputes. Please review the SF5, and if it is acceptable, please sign on the indicated signature line, initial the revised recommendation and the boundary map and return the original SF5 to me in the self-addressed stamped envelope that I have enclosed for your convenience. I will obtain the remaining signature from the Bureau of Land Management and file the SF5 with the SRBA Court.

If you should have any questions or comments, please don't hesitate to contact me at 287-4815 or Michael Holliday, Senior Water Resource Agent, at 525-7161.

Sincerely,

A handwritten signature in black ink, appearing to read "Ray Williams", is written over a horizontal line.

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. 01-10058
	)	
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, *which removes federal public land from the digital boundary*. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

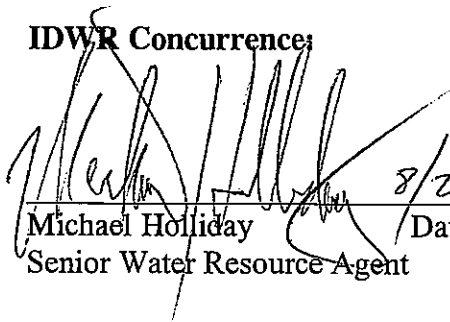
CLAIMANT:
Smith-Maxwell Ditch Co.

OBJECTOR:
United States of America

Layne Hamilton Date
Title:

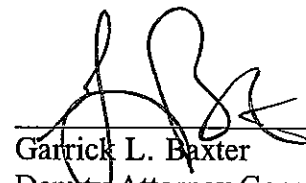
David L. Negri, USDOJ Date
Attorney for Objector

IDWR Concurrence:



Michael Holliday
Senior Water Resource Agent
8/28/2009

Date



Garrick L. Baxter
Deputy Attorney General
Attorney for IDWR
8/25/09

Date

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

RIGHT NUMBER: 1-10058

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

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

Point of injection into and point of redirection from Blackfoot River.

QUANTITY: 10.580 CFS

Right Nos. 1-10058 and 27-12108 are limited to a total combined diversion rate of ~~13.44 cfs~~ 13.9 cfs.

PRIORITY DATE: 02/21/1890

POINT OF
DIVERSION:

T01N R37E S31 SWNE Lot 7 Within BINGHAM County
T02S R36E S24 NESWSE Lot 2 Injection Within BINGHAM County
T03S R34E S23 SWSWSW Rediversion Within BINGHAM County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	10.580 CFS

PLACE OF USE:

~~672 ACRES TOTAL~~ 695 ACRES TOTAL

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.

This right is limited to the irrigation of 263.5 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of ~~672 acres~~ 695 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:

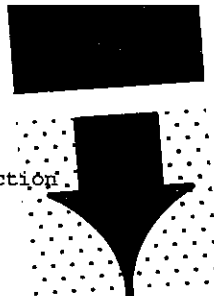
This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

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

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

This right is a combination of old Right Nos. 1-28C, 1-28E, 1-87B, 1-87C, 1-87D, 1-169F, and 1-169G.



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MWA



Smith-Maxwell Ditch Co

Adjudication Recommendations: 1-10058, 27-12108

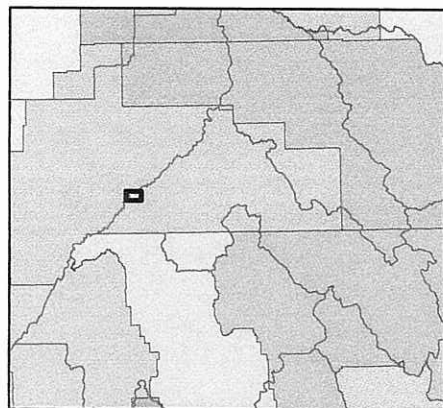
MMH

AB

Irrigation Service Area Boundary
GIS Place of Use Illustration

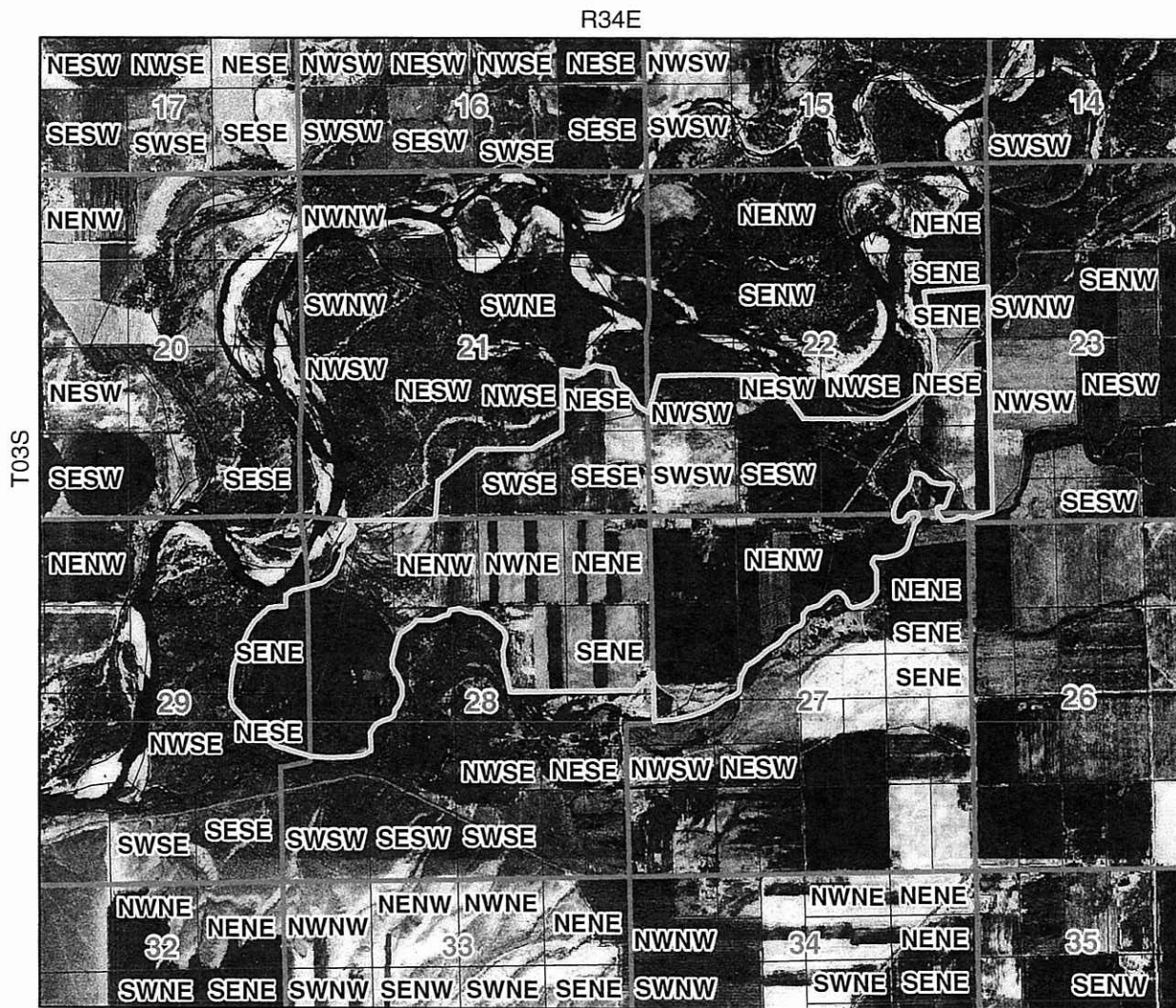
Legend

-  Service Area
-  State Outline
-  Townships
-  PLS Sections
-  Quarter Quarters



Bingham County
IDWR Basin 27

Prepared by Danielle Favreau
On August 14, 2009
1987/88 Aerial Photography



0 0.5 1 2 Miles

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:

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

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

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

Signature of person or attorney mailing the form