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DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____
2009 OCT 30 PM 10 12

**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. 63-09212
)
)
)
)
)
)
)

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.

CLAIMANTS

Alfred & Berta Kandler

 10/20/2009
Matthew Johnson, Attorney Date

OBJECTOR

Wilder Irrigation District

 10/20/09
Albert P. Barker, Attorney Date

United States on behalf of
Bureau of Reclamation

IDWR Concurrence:

 10-27-09
  10-28-09
 IDWR Agent Date Nicholas Spencer Date
 Deputy Attorney General

CERTIFICATE OF MAILING

I certify that on Oct 29, 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

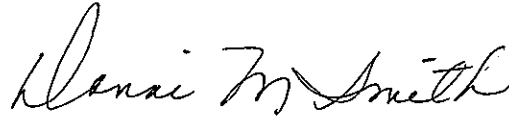
2. Copies to:

ALFRED KANDLER
BERTA KANDLER
DEEON J HARPER
V JAY HARPER
Represented by:
JOHNSON, MATTHEW A
WHITE PETERSON GIGRAY ROSSMAN
5700 E FRANKLIN RD STE 200
NAMPA, ID 83687-7901

WILDER IRRIGATION DISTRICT
Represented by:
PAUL L ARRINGTON
113 MAIN AVE W, STE 303
PO BOX 485
TWIN FALLS, ID 83303-0485

USDI BUREAU OF RECLAMATION
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

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

A handwritten signature in cursive script, reading "Kanae M. Smith". The signature is written in dark ink and is positioned above a horizontal line.

Signature of person or attorney mailing the form

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

RIGHT NUMBER: 63-9212

NAME AND ADDRESS: ALFRED KANDLER
24005 BOISE RIVER RD
CALDWELL ID 83605BERTA KANDLER
24005 BOISE RIVER RD
CALDWELL ID 83605

SOURCE: CHRISTIAN GULCH WASTEWAY

TRIBUTARY: DIXIE DRAIN

~~The source of this water right is waste water. The wasting of water may be discontinued at any time.~~QUANTITY: 0.720 CFS
162.000 AFY

PRIORITY DATE: 04/15/1979

POINT OF DIVERSION:

T04N R05W S1 SESE Within CANYON County

PURPOSE AND
PERIOD OF USE:PURPOSE OF USEPERIOD OF USEQUANTITY

IRRIGATION

3/15 11/15

0.720 CFS
162.00 AFY

The use of water for irrigation under this right may begin as early as March 1, provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE:

IRRIGATION in CANYON County

T04N R05W S01 Lot 2 NWNE 36.00

36 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

While the Christian Gulch Wasteway is a natural water way, it is also a federal facility and has been utilized as part of the Boise Project as invoked by the United States through its reservation authority provided by the Act of August 30, 1890 (43 U.S.C. 945). As a federal facility, the Christian Gulch Wasteway, to the extent allowed by law, may be rerouted, piped, or its flow of water interrupted if determined appropriate to better serve Boise Project purposes.

An easement or right of way agreement providing for access to the drain by its owner and those responsible for maintaining it - and/or for access to the drain by the appropriator to divert water pursuant to this right - must be executed among the appropriator, the owner of the drain, and if appropriate, those responsible for maintaining the drain. Failure to execute such an agreement will constitute grounds for legal action to prevent water from being diverted under this right.

NBS

RLA
mag
Jr

SF5 Right No. 63-9212

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 source of this water right includes waste water. The right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

J
NBS

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

SF5 Right No. 63-9212