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DEPARTMENT OF
WATER RESOURCES

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

JAN 21 2010

By _____ Clerk
Deputy Clerk

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

) ORDER SETTING
) SHOW CAUSE HEARING

) SUBCASE NOS.: 27-4011, 27-11998,
) 27-11999, 27-12082
)

I. BACKGROUND

After the *Director's Reports* were filed for Basin 27, the Idaho Department of Water Resources notified the court that it had conducted a review of its recommendations for Basin 27 and discovered that some corrections were needed. On November 18, 2008, IDWR sent a letter providing the Court with additional information about the necessary corrections. The letter was served on the parties to the subcases. The IDWR letter stated that these subcases contained errors in the *Director's Report* which was carried over to the *Partial Decrees*. A hearing was held on January 30, 2009. At the hearing, IDWR explained that these *Partial Decrees* include the following language:

The quantity of water decreed for this water right is not a determination of historical beneficial use.

IDWR recommended that the language be deleted because IDWR does have information about historic beneficial use for these water rights. IDWR further recommended that the Court set a deadline for any parties to object to the deletion of that language from the *Partial Decrees*. A deadline was set for March 27, 2009.

A letter was received from Lynn Rasmussen on February 19, 2009. The letter explained a discrepancy in the *Partial Decrees*. The court treated the correspondence as a *Motion to Set Aside Partial Decrees*. A hearing was held on June 5, 2009. The claimants failed to attend. Hearings were also held on July 10, 2009 and January 6, 2010. The claimants failed to attend. At the hearing on January 6, 2010 the Idaho Department of Water Resources reported to the court that it sent a proposed settlement agreement to the claimant, but has not had any contact with the claimants.

THEREFORE, an **Order to Show Cause** hearing is set as follows:

Date: June 16, 2010 **Time:** 10:30 am

Show Cause Hearing

Location: Snake River Basin Adjudication
253 3rd Ave. North
Twin Falls, Idaho 83301

Parties may participate by telephone for the Show Cause Hearing by dialing 1-225-383-1099 and when prompted enter participant code 926509. Any questions regarding telephone participation, please contact the clerk's office at (208) 736-3011.

IT IS HEREBY ORDERED, pursuant to I.R.C.P. 6(c)(2) and I.R.C.P. 6(c)(4) that Lynn and Glenna Rasmussen and Val and Alice Gibson shall appear at a **Show Cause Hearing** to determine whether the Court should issue a *Special Master's Report and Recommendation* recommending the elements as set forth in the proposed *Standard Form 5*. The elements of this water right would then be as set forth in the attached proposed *Standard Form 5*. (Attached hereto as Exhibit 1)

IT IS FURTHER ORDERED THAT, any affidavits and/or notices to cross-examine pursuant to I.R.C.P. 6(c)(2) shall be due on or before June 4, 2010.

Lynn and Glenna Rasmussen and Val and Alice Gibson are hereby informed that pursuant to Rule 6(c)(4) of the Idaho Rules of Civil Procedure, any party has the right to elect to produce testimony and evidence at the hearing upon the Order to Show Cause, or to cross-examine the adverse party or the adverse party's affiants, by first giving at least twenty four (24) hours notice to the Court and opposing counsel before the show cause hearing.

A copy of this **Order to Show Cause and Summons to Appear** shall be served upon the Claimants not less than five (5) days prior to the date set for hearing, where they are required to appear before this Court and show cause. Service of this **Order** shall be made in accordance with I.R.C.P. 5(b) and 6(c)(2).

APPEARANCE AT THIS HEARING IS MANDATORY. FAILURE TO APPEAR AT THIS HEARING MAY RESULT IN THIS WATER RIGHT BEING RECOMMENDED AS SET FORTH IN THE ATTACHED STANDARD FORMS 5.

DATED: January 21, 2010.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER SETTING
SHOW CAUSE HEARING was mailed on January 21, 2010, with sufficient
first-class postage to the following:

SHOSHONE-BANNOCK TRIBES

Represented by:
JEANETTE WOLFLEY
SPECIAL COUNSEL
SHOSHONE-BANNOCK TRIBE
202 N ARTHUR
POCATELLO, ID 83202
Phone: 208-232-1922

STATE OF IDAHO

Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

DIRECTOR OF IDWR

PO BOX 83720
BOISE, ID 83720-0098

ALICE GIBSON

VAL GIBSON
100 N WOODLAND DRIVE
SODA SPRINGS, ID 83276
Phone: 208-547-4009

GLENNA RASMUSSEN

LYNN RASMUSSEN
168 LAGO-LIBERTY RD
GRACE, ID 83241-5352
Phone: 208-427-6637

Exhibit 1

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

RIGHT NUMBER: 27-4011

NAME AND ADDRESS:

ALICE GIBSON
100 N WOODLAND DRIVE
SODA SPRINGS ID 83276

GLENNA RASMUSSEN
168 LAGO-LIBERTY RD
GRACE ID 83241-5352

LYNN RASMUSSEN
168 LAGO-LIBERTY RD
GRACE ID 83241-5352

VAL GIBSON
100 N WOODLAND DRIVE
SODA SPRINGS ID 83276

SOURCE:

Source:

UNNAMED SPRING
~~G-B PALFREYMAN SPRING~~

Tributary:

SINKS

AK

QUANTITY:

0.030 CFS

4.500 AFY

The quantity of water under this right shall not exceed 13,000 gallons per day.

The rights listed below are limited to a total combined annual diversion volume of 3.9 AF for stockwater. Combined Right Nos.: 27-4011, 27-11998, and 27-11999.

PRIORITY DATE: 09/24/1924

POINT OF DIVERSION:

~~T07S R45E S31 NWNE~~
~~Within CARIBOU County~~

T07S R45E S31 NWNE
Within CARIBOU County

PURPOSE AND
PERIOD OF USE:

Purpose of use:

Period of use:

Quantity:

STOCKWATER

05/01 11/30

0.020 CFS

3.90 AFY

~~01/01 12/01~~

DOMESTIC

01/01 12/31

0.010 CFS

0.60 AFY

Domestic use is for 1 home.

~~Domestic use is for 1 home. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.~~

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

PLACE OF USE: STOCKWATER within CARIBOU County
T07S R45E S30 Lot 3 NWSW
DOMESTIC within CARIBOU County
T07S R45E S30 Lot 4 SWSW

072

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.

~~THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS
NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.~~

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Source is also known as G. B. Palfreyman Spring.

Stockwater use is for 300 cow-calf pairs.

~~PARCEL NOS. 15370, 15380 STOCKWATER, 360 CATTLE~~

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

RIGHT NUMBER: 27-11998

NAME AND ADDRESS:

LYNN RASMUSSEN
168 LAGO-LIBERTY RD
GRACE ID 83241-5352

VAL GIBSON
100 N WOODLAND DRIVE
SODA SPRINGS ID 83276

SOURCE:

Source:
CABIN CREEK

Tributary:
SINKS

QUANTITY:

0.020 CFS
3.900 AFY

The rights listed below are limited to a total combined annual diversion volume of 3.9 AF for stockwater. Combined Right Nos.: 27-4011, 27-11998, and 27-11999.

The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 09/24/1924

POINT OF DIVERSION:

T07S R45E S31 SENENW Begin of Stream Flow
Within CARIBOU County

T07S R45E S31 Lot 1 NWNWNW End of Stream Flow
Within CARIBOU County

PURPOSE AND
PERIOD OF USE:

Purpose of use:

Period of use:

Quantity:

STOCKWATER

05/01 11/30
01/01 12/31

0.020 CFS 3.90 AFY

PLACE OF USE:

STOCKWATER within CARIBOU County

T07S R45E S31 NENW

T07S R45E S31 Lot 1 NWNW

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.

~~The quantity of water decreed for this water right is not a determination of historical beneficial use.~~

EXPLANATORY MATERIAL:

BASIS OF CLAIM - Beneficial Use

Stockwater use is for 300 cow-calf pairs.

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

RIGHT NUMBER: 27-11999

NAME AND ADDRESS:

LYNN RASMUSSEN
168 LAGO-LIBERTY RD
GRACE ID 83241-5352

VAL GIBSON
100 N WOODLAND DRIVE
SODA SPRINGS ID 83276

SOURCE:

Source:
YELLOWJACKET CREEK

Tributary:
DIAMOND CREEK

QUANTITY: 0.020 CFS
3.900 AFY

The rights listed below are limited to a total combined annual diversion volume of 3.9 AF for stockwater. Combined Right Nos.: 27-4011, 27-11998, and 27-11999.

The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 09/24/1924

POINT OF DIVERSION:

T07S R45E S31 Lot 2 SWNW End of Stream Flow
Within CARIBOU County

~~T07S R45E S31 Lot 2 SWSWNW End of Stream Flow
Within CARIBOU County~~

~~T07S R45E S31 NESENW Begin of Stream Flow
Within CARIBOU County~~

T07S R45E S31 SESENW Begin of Stream Flow
Within CARIBOU County

PURPOSE AND
PERIOD OF USE:

Purpose of use:

Period of use:

Quantity:

STOCKWATER

05/01 11/30

0.020 CFS

3.90 AFY

~~01/01 12/31~~

PLACE OF USE:

STOCKWATER within CARIBOU County

T07S R45E S31 Lot 2 SWNW

T07S R45E S31 SENW

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

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.

~~The quantity of water decreed for this water right is not a determination of historical beneficial use.~~

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use
Stockwater use is for 300 cow-calf pairs.

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

RIGHT NUMBER: 27-12082

NAME AND ADDRESS:

LYNN RASMUSSEN
168 LAGO-LIBERTY RD
GRACE ID 83241-5352
VAL GIBSON
100 N WOODLAND DRIVE
SODA SPRINGS ID 83276

SOURCE:

Source:
TIMOTHY CREEK

Tributary:
DIAMOND CREEK

QUANTITY:

0.020 CFS

0.270 AFY

The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 05/01/1924

POINT OF DIVERSION:

T07S R44E S13 NESWSE Begin of Stream Flow
Within CARIBOU County

T07S R44E S13 NWSWSE End of Stream Flow
Within CARIBOU County

AK

PURPOSE AND
PERIOD OF USE:

Purpose of use:

Period of use:

Quantity:

STOCKWATER

05/01 10/27

0.020 CFS 0.27 AFY

~~01/01 12/31~~

PLACE OF USE:

STOCKWATER within CARIBOU County
T07S R44E S13 SWSE

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.

~~The quantity of water decreed for this water right is not a determination of historical beneficial use.~~

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Stockwater use is for 40 range cattle.