



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

February 2, 2010

David L. Negri
U.S. Department of Justice
Environment & Natural Resource Division
General Litigation Section
550 W. Fort Street, MSC 033
Boise, ID 83724

RE: SRBA Subcase No. 22-683B (Gebhard)

Dear David:

I am enclosing an *SF5* for the above-referenced subcase. Please review the document, and if it is acceptable, please sign on the indicated signature line and initial the revised recommendation. After signature, please return the original *SF5* to me, and I will file it with the SRBA Court. If you prefer to have the Forest Service file the document and provide copies to the parties, please feel free to do so.

If you should have any questions or comments, please don't hesitate to contact me at 287-4815.

Sincerely,

A handwritten signature in blue ink 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

Case No. 39576

Subcase No. 22-683B

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 reflects no changes from the Amended Director's Report filed on March 25, 2009. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT/OBJECTOR:

Richard Howard Gebhard

OBJECTOR:

USDA Forest Service


Sean R. Moulton

Date

Attorney for Claimant/Objector


David L. Negri, USDOJ

Date

Attorney for Objector

IDWR Concurrence:

Ernest Carlsen 12/8/09
Ernest Carlsen Date
Water Resource Program Manager

Andrea L. Courtney 12/13/09
Andrea L. Courtney Date
Deputy Attorney General
Attorney for IDWR

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

RIGHT NUMBER: 22-683B

NAME AND ADDRESS:

RICHARD HOWARD GEBHARD
PO BOX 168
VICTOR ID 83455

SOURCE:

Source:
POLE CREEK

Tributary:
SINKS

QUANTITY:

0.100 CFS

The rights listed below are limited to a total combined diversion rate of 2.00 cfs.

Combined Right Nos.: 22-683A, 22-683B and 22-13915.

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

PRIORITY DATE:

10/22/1901

POINT OF DIVERSION:

T03N R45E S26 Lot 4 SWNNW

Within TETON County

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

IRRIGATION

04/15 10/31

0.100 CFS

STOCKWATER

01/01 12/31

0.020 CFS

A72
enc
SM

PLACE OF USE:

IRRIGATION

within TETON County

T03N R45E S23 SWSW 4.0

STOCKWATER

within TETON County

T03N R45E S23 SWSW

4 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 47.8 acres in a single irrigation season. Combined Right Nos.: 22-683A, 22-683B and 22-13915.

Place of use does not include federal public lands.

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

Property is also known as Homestead Entry Survey No. 253 Tracts B.

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

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

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:

RICHARD HOWARD GEBHARD

Represented by:
SEAN R. MOULTON
P.O. BOX 631
DRIGGS, ID 83422

UNITED STATES OF AMERICA

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

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

Signature of person or attorney