

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

FEB 11 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	)	Subcase No. 63-31772
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

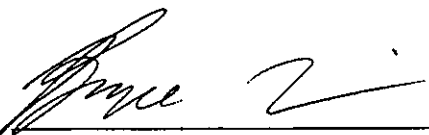
This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

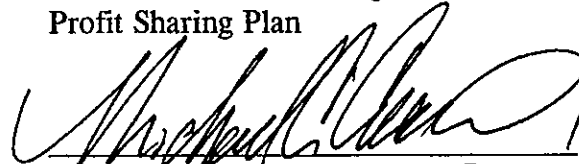
The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions 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. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

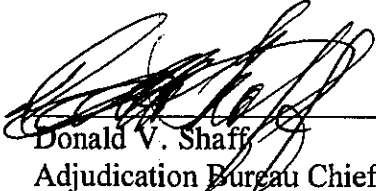
CLAIMANT/OBJECTOR:
Hart-Davis Ditch Company

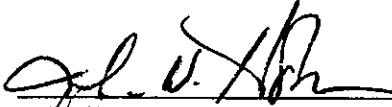
OBJECTORS(s):
Ron Sali & Ron Sali Properties, Inc.
Profit Sharing Plan

 2/17/09
S. Bryce Farris Date
Attorney for Claimant/Objector

 1/29/10
Michael C. Creamer Date
Attorney for Objectors

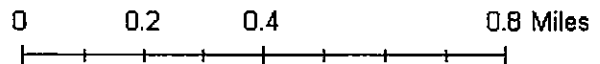
IDWR Concurrence:

 2-09-09
Donald V. Shaff Date
Adjudication Bureau Chief

 2-09-09
John W. Homan Date
Deputy Attorney General
Attorney for IDWR

ucl
JLF

Water Service Area Boundary for Hart-Davis Ditch Co Inc
August 14, 2008



Place Of Use Boundary

-

CERTIFICATE OF MAILING

I certify that on February 10, 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

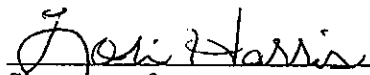
2. Copies to:

RON SALI & RON SALI PROPERTIES
Represented by:
JEFFREY C. FEREDAY
601 W. BANNOCK ST.
P.O. BOX 2720
BOISE, ID 83701-2720

RON SALI & RON SALI PROPERTIES
Represented by:
MICHAEL C. CREAMER
601 W. BANNOCK ST.
P.O. BOX 2720
BOISE, ID 83701-2720

HART-DAVIS DITCH CO.
HART-DAVIS DITCH CO., INC
Represented by:
S. BRYCE FARRIS
455 S. THIRD ST
P.O. BOX 2773
BOISE, ID 83701-2773

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



Signature of person or attorney mailing the form

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

RIGHT NUMBER: 63-31772

NAME AND ADDRESS: HART-DAVIS DITCH CO INC
C/O JIM BRESZINSKY
1111 TROUT RD
EAGLE ID 83616

[Handwritten signatures and initials: "JHB", "SBH", "HCC"]

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 6.660 CFS

This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 06/01/1872

POINT OF
DIVERSION:

T04N R01E S17 NWNW Within ADA County

PURPOSE AND
PERIOD OF USE:PURPOSE OF USEPERIOD OF USEQUANTITY

IRRIGATION

03/01 11/15

6.660 CFS

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE:

209 336 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.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 209 336 ACRES WITHIN THE BOUNDARY OF HART-DAVIS DITCH COMPANY.

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 NO. 63-134 IS ALSO DIVERTED THROUGH THE POINT OF DIVERSION DESCRIBED ABOVE.

THIS RIGHT IS A COMBINATION OF OLD RIGHT NOS. 63-186 AND 63-187.

THIS RIGHT IS DESIGNATED AS RIGHT NOS. 57 AND 58 IN THE STEWART DECREE AND THE BOISE RIVER WATER MASTERS RECORDS.

WATER IS DELIVERED THROUGH THE HART-DAVIS DITCH

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.

[Handwritten signature]
SBE
MCL