

MAY 26 2010

By \_\_\_\_\_

**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. 27-11729

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:**

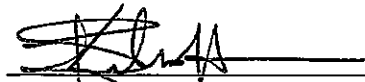
Shoshone-Bannock Tribes

*Ken J. Wixom* April 23 2010  
Ken J. Wixom Date

*Jeanette Wolfley* 5/20/10  
Jeanette Wolfley Date  
Attorney for Objector

**RESPONDENT:**

State of Idaho

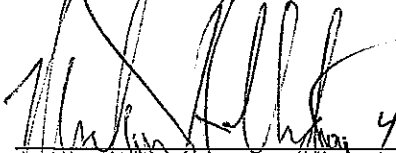


Shasta Kilminster-Hadley  
Attorney for Respondent

5/3/10

Date

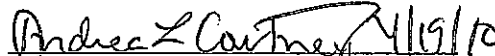
**IDWR Concurrence:**



Michael Holliday  
Senior Water Resource Agent

4/22/2010

Date



Andrea L. Courtney  
Deputy Attorney General  
Attorney for IDWR

Date

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

RIGHT NUMBER: 27-11729  
NAME AND ADDRESS: KEN J WIXOM  
260 W 300 N  
BLACKFOOT ID 83221

*AK*

SOURCE: TRAIL CREEK TRIBUTARY: BLACKFOOT RIVER  
QUANTITY: 0.020 CFS  
4.20 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 4.2 AF. Combined Right Nos.: 27-11728, 27-11729, 27-11730, and 27-11996.

PRIORITY DATE: 04/01/1914

POINT OF  
DIVERSION:

T03S R39E S21 NWSWE Begin of Stream Flow Within BINGHAM County  
T03S R39E S28 NWNWE End of Stream Flow Within BINGHAM County

*Jan MWR SKH  
KW.*

PURPOSE AND  
PERIOD OF USE:

| PURPOSE OF USE: | PERIOD OF USE:         | QUANTITY:       |
|-----------------|------------------------|-----------------|
| STOCKWATER      | <del>04/01</del> 12/31 | 0.020 CFS       |
|                 | <u>04/25</u> 12/31     | <u>4.20 AFY</u> |

PLACE OF USE: STOCKWATER in BINGHAM County

T03S R39E S21 SWSE T03S R39E S28 NWNE

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 450 range cattle.

## CERTIFICATE OF MAILING

I certify that on May 25, 2010, 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:

SHOSHONE-BANNOCK TRIBES

Represented by:  
JEANETTE WOLFLEY  
SPECIAL COUNSEL  
SHOSHONE-BANNOCK TRIBE  
202 N. ARTHUR  
POCATELLO, ID 83202

STATE OF IDAHO

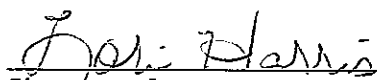
Represented by:  
NATURAL RESOURCES DIV. CHIEF  
STATE OF IDAHO  
ATTORNEY GENERAL'S OFFICE  
P.O. BOX 44449  
BOISE, ID 83711-4449

DIRECTOR OF IDWR

P.O. BOX 83720  
BOISE, ID 83720-0098

KEN J. WIXOM

260 W 300 N  
BLACKFOOT, ID 83221

  
\_\_\_\_\_  
Signature of person or attorney mailing the form