

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

JAN 27 2011

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. 47-17164

Case No. 39576

STANDARD FORM 5

STIPULATED ELEMENTS OF A
WATER RIGHT

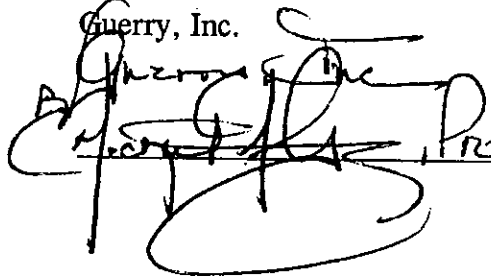
This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary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

Guerry, Inc.

 Pro. 1/19-11
Date

OBJECTOR:

State of Idaho - Idaho Department of Lands

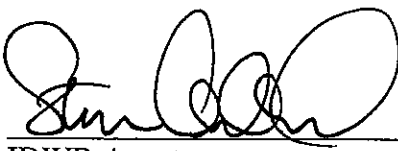
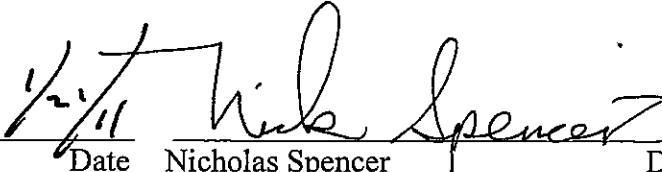
 1/10/11
David Stanish
Deputy Attorney General Date

STANDARD FORM 5 - 47-17164

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IDWR Concurrence:

 1/21/11  1-21-11
IDWR Agent Date Nicholas Spencer Date
Deputy Attorney General

CERTIFICATE OF MAILING

I certify that on January 26, 2011, 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:

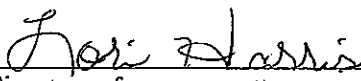
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

STATE OF IDAHO DEPT OF LANDS
Represented by:
STATE OF IDAHO
JRW BUILDING, SECOND FLOOR
700 W STATE ST, PO BOX 44449
BOISE, ID 83711-4449

GUERRY INC
PO BOX 687
CASTLEFORD, ID 83321

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


Signature of person or attorney mailing the form

12/23/2010

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

RIGHT NUMBER: 47-17164

NAME AND ADDRESS: GUERRY INC
PO BOX 687
CASTLEFORD ID 83321

STATE OF IDAHO
DEPT OF LANDS
300 N 6TH ST STE 103
PO BOX 83720
BOISE ID 83720-0050

SOURCE: SPRING
UNNAMED DRAINAGE

TRIBUTARY: HOUSE CREEK
TRIBUTARY: HOUSE CREEK

QUANTITY: 0.020 CFS
0.500 AFY

THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING
ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER
BENEFICIALLY USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT.

PRIORITY DATE: 09/01/1934

POINT OF DIVERSION:

T14S R12E S36 SWSENW Within TWIN FALLS County

T16S R13E S30 NWNWNW Lot 1 Within TWIN FALLS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER FROM STORAGE	01/01 12/31	0.50 AFY
STOCKWATER STORAGE	01/01 12/31	0.50 AFY
STOCKWATER	05/01 12/31	0.020 CFS

PLACE OF USE: STOCKWATER in TWIN FALLS County

T14S R12E S36 SENW T16S R13E S30 Lot 1 NWNW

STOCKWATER STORAGE in TWIN FALLS County

T14S R12E S36 SENW

STOCKWATER FROM STORAGE in TWIN FALLS County

T14S R12E S36 SENW

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

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

The ownership of water right no. 47-17164 is governed by a private
agreement executed by the Idaho Department of Lands and Guerry Inc.
dated April 28, 2010.

This partial decree is subject to such general provisions necessary for

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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 - Beneficial Use

This right is a split from former right 47-12108.

FS
NBS
Sen

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PRIVATE SETTLEMENT AGREEMENT BETWEEN THE STATE OF IDAHO,

DEPARTMENT OF LANDS, AND GUERRY INC.

THIS AGREEMENT is entered into by and between the State of Idaho, Department of Lands, and Guerry Inc.

IN CONSIDERATION OF THE PROMISES STATED IN THIS AGREEMENT, THE PARTIES AGREE AS FOLLOWS:

I. DEFINITIONS

- A. The term "IDL" means the State of Idaho, Department of Lands, 300 N. 6th St., P.O. Box 83720, Boise, Idaho, 83720-0050, by and through its authorized representatives.
- B. The term "IDWR" means the State of Idaho, Department of Water Resources, 322 E. Front Street, P.O. Box 83720, Boise, Idaho 83720-0098.
- C. The term "Lessee" means Guerry Inc., c/o Michael A. Guerry, 112 East Main, P.O. Box 687, Castleford, Idaho 83321, by and through its authorized representatives.
- D. The term "Lease No. G-7288" means State of Idaho State Land Lease No. G-7288, executed on November 19, 2003 with a term commencement date of January 1, 2004 and with a term expiration date of December 31, 2013, or, in the event the lease is renewed, a term expiration date of the successor lease.

II. RECITALS AND PURPOSE OF AGREEMENT

- A. IDL acquired the following lands from the United States as follows:

Acquisition Document	Date	Legal Description	Acres
State Grant	May 12, 1893	T14S R12E S36	640
Clear List	Dec. 15, 1919	T16S R13E S30 Lot 1 NWNW	53.98

- B. Lessee has claimed portions of the lands described above in Paragraph II.A as including the points of diversion and place of use for water right no. 47-17164.

C. The purpose of this agreement is to describe what happens upon the expiration, termination, or otherwise ending of Lease No. G-7288.

III. EXPIRATION, TERMINATION, OR OTHERWISE ENDING OF LEASE NO. G-7288

A. In the event of the expiration, termination, or otherwise ending of Lease No. G-7288, any ownership interest held by Lessee in water right no. 47-17164 shall automatically cease and IDL shall become the sole owner of water right no. 47-17164.

B. In the event of the expiration, termination, or otherwise ending of Lease No. G-7288, Lessee shall have no right or privilege to access the lands described above in Paragraph II.A for use of water right no. 47-17164.

IV. TERM

A. This Agreement shall take effect when executed by both parties hereto.

B. This Agreement shall continue in effect until a period of five years from the date of the expiration, termination, or otherwise ending of Lease No. G-7288.

C. These term limits are in no way to be interpreted as extinguishing, limiting, or otherwise affecting the provisions and agreements of Paragraph III of this Agreement.

V. ALTERATION

Any change in this Agreement shall be in writing signed by an authorized representative of both parties.

VI. GOVERNING LAW

Both parties agree that this Agreement shall be governed by, and construed in accordance with, the laws of the State of Idaho.

VII. ASSIGNMENT OF RIGHTS AND DELEGATION OF DUTIES

No party shall assign a right under this Agreement or delegate a duty under this Agreement without the prior written consent of the other.

VIII. ENTIRE AGREEMENT

This Agreement sets forth all the covenants, promises, provisions, agreements, conditions, and understandings between the parties and there are no covenants, provisions, promises, agreements, conditions, or understandings, either oral or written between them other than are herein set forth.

IX. EFFECT OF SECTION HEADINGS

The section headings appearing in this contract are not to be construed as interpretations of the text but are inserted for convenience and reference only.

X. DUPLICATE ORIGINALS

This Agreement is executed in duplicate. Each of the two (2) Agreements with an original signature of each party shall be an original.

IN WITNESS WHEREOF the parties executed this contract on the date following their respective signatures.

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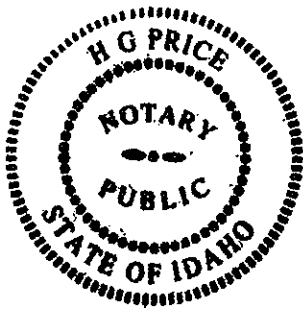
IDAHO DEPARTMENT OF LANDS


George Bacon
NMS

STATE OF IDAHO)
COUNTY OF ADA)

On this 28th day of APRIL in the year 2010, before me a Notary Public in and for said State, personally appeared George Bacon, known to me to be the Director, that executed the within instrument, and acknowledged to me that the State of Idaho Department of Lands executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.



H G PRICE
Notary Public for Idaho
Residing at Middleton
My commission expires: 03/18/16

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LESSEE

Sign:

Print:

Position:

By Gueerry, Inc.
Michael A. Gueerry
Michael A. Gueerry
President

Date:

4/22-10

STATE OF Idaho

COUNTY OF Twin Falls^S

On this 24th day of April in the year 2010, before me a Notary Public in and for said State, personally appeared Michael A. Gueerry known to me to be President of Gueerry, Inc. that executed the within instrument and acknowledged to me that Gueerry Inc. executed the same.

IN WITNESS THEREOF, I have hereunto set my hand and seal on the day and year last above written.

VICKI PETERSON
NOTARY PUBLIC
STATE OF IDAHO

Vicki Peterson
Notary Public for Idaho

Residing at Idaho

My commission expires: 4/10/12

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ATTACHMENT I

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

Right Number: 47-17164

Name and Address: GUERRY INC
PO BOX 687
CASTLEFORD, ID 83321

STATE OF IDAHO
DEPARTMENT OF LANDS
300 N. 6TH ST.
P.O. BOX 83720
BOISE, ID 83720-0050

Source: SPRING Tributary: HOUSE CREEK
UNNAMED DRAINAGE Tributary: HOUSE CREEK

Quantity: 0.020 CFS
0.50 AFY

THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING
ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER
BENEFICIALLY USED BY THE NUMBER OF STOCK WITHIN THE
ALLOTMENT.

Priority Date: 09-01-1934

Diversion Point: T14S R12E S36 SWSENW Within Twin Falls County
T16S R13E S30 NWNWNW Within Twin Falls County

Purpose and
Period of Use:

<u>Purpose of Use</u>	<u>Period of Use</u>	<u>Quantity</u>
Stockwater from storage	01/01 12/31	0.50 AFY
Stockwater storage	01/01 12/31	0.50 AFY
Stockwater	05/01 12/31	0.020 CFS

Place of Use: Stockwater in Twin Falls County

T14S R12E S36 SENW T16S R13E S30 Lot 1 NWNW

Stockwater storage in Twin Falls County

T14S R12E S36 SENW

Stockwater from storage in Twin Falls County

T14S R12E S36 SENW

ATTACHMENT I

Other Provisions Necessary for Definition / Administration of this Water Right:

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

The ownership of water right no. 47-17164 is governed by a private agreement executed by the Idaho Department of Lands and Guerry Inc. dated

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 - Beneficial Use

This right is a split from former right 47-12108.

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