

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

JAN 27 2011

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

Case No. 39576

Subcase No. 47-17525

(Split from 47-84)

STANDARD FORM 5

**STIPULATED ELEMENTS OF A
WATER RIGHT**

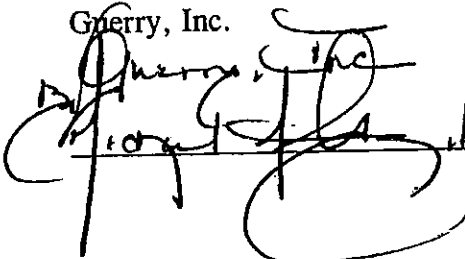
This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary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

Gerry, Inc.


Date 1/19-11

STANDARD FORM 5 - 47-17525

OBJECTOR:

State of Idaho - Idaho Department of Lands


David Stanish
Deputy Attorney General
Date 1/12/2011

SCANNED

JAN 31 2011

IDWR Concurrence:

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

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]
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: 47-17525

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

SOURCE: SPRING

TRIBUTARY: LITTLE HOUSE CREEK

QUANTITY: 0.720 CFS

Right nos. 47-17525 and 47-17526 are limited to a total combined diversion rate of 0.78 cfs.

Right nos. 47-17525 and 47-17526 are limited to a total combined diversion rate of 0.02 cfs and 13,000 gallons per day for stockwater use.

PRIORITY DATE: 05/01/1904

POINT OF DIVERSION:

T15S R12E S23 NWNWSE Within TWIN FALLS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.720 CFS
STOCKWATER	04/01 10/31	0.020 CFS

PLACE OF USE: IRRIGATION in TWIN FALLS County

T15S R12E S23	NWNE	6.60	T15S R12E S23	SWNE	21.00
T15S R12E S23	SENE	0.50			

STOCKWATER in TWIN FALLS County

T15S R12E S23	NWNE	T15S R12E S23	SWNE
T15S R12E S23	SENE		

28.1 ACRES TOTAL

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 for stockwater use is not a determination of historical beneficial use.

Access to the point of diversion and place of use of water right no. 47-17525 is governed by a private agreement executed by the Idaho Department of Lands and Guerry Inc. dated April 28, 2010.

SCANNED

JAN 31 2011

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

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

This right is a split from former right 47-84 .

DS
mg
NBS
See

SCANNED

JAN 31 2011

JAN 27 2011

PRIVATE SETTLEMENT AGREEMENT BETWEEN THE STATE OF IDAHO,

DEPARTMENT OF LANDS, AND GUERRY INC.

By _____

Clerk

Deputy Clerk

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.

E. The term "State of Idaho Land Use Permit No. LU707188" means the State of Idaho Land Use Permit No. LU707188, issued on February 23, 2010 by IDL to the Lessee.

II. RECITALS AND PURPOSE OF AGREEMENT

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

Acquisition Document	Date	Legal Description	Acres
Clear List	Sept. 14, 1920	T15S R12E S23 NWSE	40

B. Lessee has claimed portions of the lands described above in Paragraph II.A as including the point of diversion and portions of the place of use for water right no. 47-00084

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

III. SPLIT OF WATER RIGHTS

A. Water right no. 47-00084 shall be split into two separate water rights. The first water right shall include all private lands. The second water right shall include all State lands.

B. The following table describes the original water right and the new water rights after the split:

Original Water Right No.	Private Lands Water Right No.	State Lands Water Right No.
47-00084	47-17525	47-17526

C. Water right nos. 47-00084, 47-17525, and 47-17526 are attached herewith as Attachments I, II, and III to this Agreement.

IV. 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. 47-17526 shall automatically cease and IDL shall become the sole owner of water right no. 47-17526.

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. 47-17526.

C. In the event of the expiration, termination, or otherwise ending of Lease No. G-7288, Lessee's right or privilege to access the lands described above in Paragraph II.A for use of water right no. 47-17525 shall be governed by State of Idaho Land Use Permit No. LU707188 or its successor state permit or lease.

V. 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 IV of this Agreement.

VI. ALTERATION

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

VII. GOVERNING LAW

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

VIII. 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.

IX. 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.

X. EFFECT OF SECTION HEADINGS

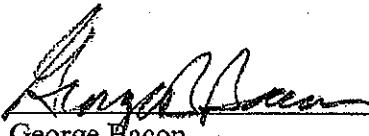
The section headings appearing in this contract are not to be construed as interpretations of the text but are inserted for convenience and reference only.

XI. 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.

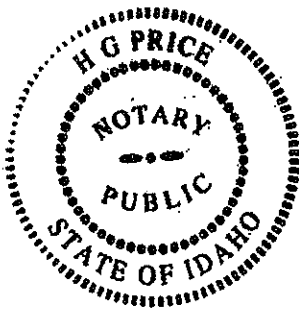
IDAHO DEPARTMENT OF LANDS


George Bacon

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.




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

LESSEE

Sign:

Print:

Position:

Michael A. Guerry
Michael A. Guerry
President

Date:

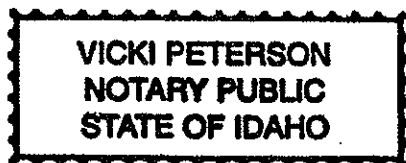
4/22-10

STATE OF Idaho

COUNTY OF Turn Falls

On this 24th day of April in the year 2010, before me a Notary Public in and for said State, personally appeared Michael A. Guerry known to me to be President of Guerry, Inc. that executed the within instrument and acknowledged to me that Guerry 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 for Idaho
Residing at Fillie Idaho
My commission expires: 4/10/12

ATTACHMENT I

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

RIGHT NUMBER: 47-17525

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

SOURCE: SPRING

TRIBUTARY: LITTLE HOUSE CREEK

QUANTITY: 0.72 CFS

Right nos. 47-17525 and 47-17526 are limited to a total combined diversion rate of 0.02 cfs and 13,000 gallons per day for stockwater use.

Right nos. 47-17525 and 47-17526 are limited to a total combined diversion rate of 0.78 cfs.

PRIORITY DATE: 05/01/1904

POINT OF
DIVERSION:

T15S R12E S23 NWNWSE Within TWIN FALLS County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/01 10/31	0.72 CFS
STOCKWATER	04/01 10/31	0.02 CFS

PLACE OF USE: IRRIGATION in TWIN FALLS County

T15S R12E S23 NWNE 6.6 T15S R12E S23 SWNE 21.0

T15S R12E S23 SENW 0.5

STOCKWATER in TWIN FALLS County

T15S R12E S23 NWNE T15S R12E S23 SWNE

T15S R12E S23 SENW

28.1 ACRES TOTAL

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 for stockwater use is not a determination of historical beneficial use.

Access to the point of diversion and place of use of water right no. 47-17526 is governed by a private agreement executed by the Idaho Department of Lands and Guerry Inc. dated _____.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

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

This right is a split from former right 47-84.

SETTLEMENT AGREEMENT

SCANNED
JAN 31 2011
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ATTACHMENT II

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

RIGHT NUMBER: 47-17526

NAME AND ADDRESS: STATE OF IDAHO
DEPT OF LANDS
300 N 6TH ST, STE 103
PO BOX 44449
BOISE ID 83702-5956

GUERRY INC
PO BOX 687
CASTLEFORD ID 83321

SOURCE: SPRING TRIBUTARY: LITTLE HOUSE CREEK

QUANTITY: 0.060 CFS

Right nos. 47-17525 and 47-17526 are limited to a total combined diversion rate of 0.02 cfs and 13,000 gallons per day for stockwater use.

Right nos. 47-17525 and 47-17526 are limited to a total combined diversion rate of 0.78 cfs.

PRIORITY DATE: 05/01/1904

POINT OF DIVERSION: T15S R12E S23 NWNWE Within TWIN FALLS County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/01 10/31	0.060 CFS
STOCKWATER	04/01 10/31	0.020 CFS

PLACE OF USE: IRRIGATION in TWIN FALLS County

T15S R12E S23 NWSE 2.40

STOCKWATER in TWIN FALLS County

T15S R12E S23 NWSE

2.4 ACRES TOTAL

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

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.

The ownership of water right no. 47-17526 is governed by a private agreement executed by the Idaho Department of Lands and Guerry Inc. dated _____.

Access to the point of diversion and place of use of water right no. 47-17526 is governed by a private agreement executed by the Idaho Department of Lands and Guerry Inc. dated _____.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

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

This right is a split from former right 47-84 .

SETTLEMENT AGREEMENT

SCANNED

JAN 31 2011

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ATTACHMENT III

12/8/2009

IDAHO DEPARTMENT OF WATER RESOURCES
CLAIMS / RIGHTS NOT RECOMMENDED

<u>W.R. NUMBER</u>	<u>NAME AND ADDRESS</u>	<u>CLAIM DISPOSITION</u>	<u>REASON</u>
47-84	GUERRY INC PO BOX 687 CASTLEFORD ID 83321	Split right,	see 47-17525 & 47-17526.