



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

March 31, 2011

Jerry R. Rigby
25 N. 2nd. E
P.O. Box 250
Rexburg, ID 83440-0250

RE: SRBA Subcase Nos. 22-2183, 22-2258A & 22-10483 (Summers)

Dear Jerry:

I am enclosing an SF5 for each of the above-referenced water rights. If the SF5s are acceptable, please sign on the indicated signature lines, initial the revised recommendations and file the documents with the SRBA Court. If you prefer, you can return the signed originals to me and I will have them filed.

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

Sincerely,

A handwritten signature in cursive script that reads "Ray Williams".

Ray Williams
Paralegal

Enclosures

MAR 28 2011

Department of Water Resources
Eastern Region

**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. 22-2183
	)	
	)	
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 as per the attached, which reflects no changes to the original Director's Report. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

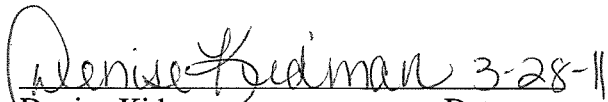
CLAIMANT:
Frank Summers, Inc.

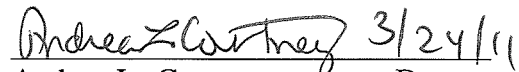
OBJECTOR:
Kelly Summers

Jerry R. Rigby Date
Attorney for Claimant

Jerry R. Rigby Date
Attorney for Objector

IDWR Concurrence:


Denise Kidman Date
Water Resource Agent


Andrea L. Courtney Date
Deputy Attorney General
Attorney for IDWR

OK

22-2183

CERTIFICATE OF MAILING

I certify that on _____, 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:

FRANK SUMMERS, INC.
KELLY SUMMERS
Represented by:
JERRY R. RIGBY
25 N. 2ND E.
P.O. BOX 250
REXBURG, ID 83440-0250

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

Signature of person or attorney

MAR 28 2011

Department of Water Resources
Eastern Region

**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. 22-2258A
	)	
	)	
Case No. 39576	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

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The parties and IDWR agree and stipulate that the elements of this water right should be described as per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT:
Summerco, Inc.

OBJECTOR:
Kelly Summers

Jerry R. Rigby Date
Attorney for Claimant

Jerry R. Rigby Date
Attorney for Objector

IDWR Concurrence:

Denise Kidman 3-28-11
Denise Kidman Date
Water Resource Agent

Andrea L. Courtney 3/24/11
Andrea L. Courtney Date
Deputy Attorney General
Attorney for IDWR

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

RIGHT NUMBER: 22-2258A
NAME AND ADDRESS: SUMMERCO INC
27 N 3000 E
SUGAR CITY ID 83448

SOURCE: GROUND WATER
QUANTITY: 3.100 CFS
542.50 AFY

TRIBUTARY:

AK
DX

PRIORITY DATE: 08/26/1965

POINT OF
DIVERSION:

T06N R40E S26 SENWNE Within MADISON County
T06N R40E S26 NESWSW Within MADISON County
~~T06N R40E S26 NWSWCW Within MADISON County~~

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	3.100 CFS 542.50 AFY

PLACE OF USE: IRRIGATION in MADISON County

T06N R40E S22	NENE	5.20	T06N R40E S22	SWNE	1.60
T06N R40E S22	SENE	31.00	T06N R40E S22	NESE	36.00
T06N R40E S22	NWSE	8.40	T06N R40E S22	SWSE	4.80
T06N R40E S22	SESE	37.00	T06N R40E S23	NENE	12.00
T06N R40E S23	SWNE	4.00	T06N R40E S23	SENE	39.00
T06N R40E S23	SWSW	40.00	T06N R40E S23	SESW	40.00
T06N R40E S23	NESE	39.00	T06N R40E S23	NWSE	21.00
T06N R40E S23	SWSE	39.00	T06N R40E S23	SESE	39.00
T06N R40E S24	NESE	35.00	T06N R40E S24	NWSE	18.00
T06N R40E S24	SWSE	26.00	T06N R40E S24	SESE	39.00
T06N R40E S25	NENE	40.00	T06N R40E S25	NWNE	24.00
T06N R40E S25	SWNE	29.00	T06N R40E S25	SENE	38.00
T06N R40E S25	NESW	29.00	T06N R40E S25	NWSW	40.00
T06N R40E S25	SWSW	39.00	T06N R40E S25	SESW	38.00
T06N R40E S25	NESE	12.00	T06N R40E S25	NWSE	39.00
T06N R40E S25	SWSE	15.00	T06N R40E S26	NENE	40.00
T06N R40E S26	NWNE	40.00	T06N R40E S26	SWNE	40.00
T06N R40E S26	SENE	40.00	T06N R40E S26	NENW	40.00
T06N R40E S26	NWNW	39.00	T06N R40E S26	SWNW	40.00
T06N R40E S26	SENE	40.00			

1177 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 1177 acres in a single irrigation season. Combined Right Nos.: 22-2258A, 22-2295, 22-10646, 22-10777

This right is limited to the irrigation of 155 acres within the place of use described above in a single irrigation season.

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 - License

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

AK
Dk

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P. O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

2. Copies to:

SUMMERCO, INC.
KELLY SUMMERS
Represented by:
JERRY R. RIGBY
25 N. 2ND E.
P.O. BOX 250
REXBURG, ID 83440-0250

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

Signature of person or attorney

MAR 28 2011

Department of Water Resources
Eastern Region

**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. 22-10483
	)	
	)	
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.

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The parties and IDWR agree and stipulate that the elements of this water right should be described as per the attached, which reflects no changes to the original Director's Report. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT:
Frank Summers, Inc.

OBJECTOR:
Kelly Summers

Jerry R. Rigby Date
Attorney for Claimant

Jerry R. Rigby Date
Attorney for Objector

IDWR Concurrence:

Denise Kidman 3-28-11
Denise Kidman Date
Water Resource Agent

Andrea L. Courtney 3/24/11
Andrea L. Courtney Date
Deputy Attorney General
Attorney for IDWR

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

RIGHT NUMBER: 22-10483

NAME AND ADDRESS: FRANK SUMMERS INC
C/O KELLY SUMMERS
327 S 3000 E
SUGAR CITY ID 83448

AZ
DK

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.780 CFS
217.00 AFY

Right Nos. 22-2183 and 22-10483 are limited to a total combined diversion rate of 2.0 cfs and to a total combined annual diversion volume of 742 AF.

PRIORITY DATE: 06/01/1968

This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

POINT OF
DIVERSION:

T06N R40E S26 NESWSW Within MADISON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.780 CFS 217.00 AFY

PLACE OF USE: IRRIGATION in MADISON County

T06N R40E S26	NESW	39.00	T06N R40E S26	NWSW	38.00
T06N R40E S26	SWSW	37.00	T06N R40E S26	SESW	39.00
T06N R40E S27	NENE	39.00	T06N R40E S27	NWNE	7.10
T06N R40E S27	SENE	16.00			

215.1 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 215.1 acres in a single irrigation season. Combined Right Nos.: 22-2183 and 22-10483.

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

This right is based upon an enlargement of Right No. 22-2183 pursuant to Section 42-1426, Idaho Code.

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 for an enlargement of 62 acres within the place of use described for this right.

Right No. 22-2183 is also diverted through point of diversion described above.

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BOISE, ID 83720-0098

Signature of person or attorney