

240

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

APR 15 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. 21-12985
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

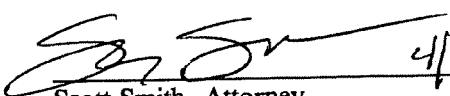
This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary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

CLAIMANTS/OBJECTORS:
Robert & Donna Fuchs

OBJECTORS:
United States of America
Bureau of Land Management



Scott Smith, Attorney
On behalf of the Claimants

4/14/2011

Date

David Negri, Attorney
Date

IDWR Concurrence:

Denise Kidman 4-14-11
Denise Kidman
Agent, IDWR

Date

Nick Spencer 4-14-11
Nick Spencer
Deputy Attorney General

Date

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

RIGHT NUMBER: 21-12985

NAME AND ADDRESS: DONNA T FUCHS
3857 E 500 N
RIGBY ID 83442
ROBERT E FUCHS
3857 E 500 N
RIGBY ID 83442

SOURCE: Source: Tributary:
WASTE WATER
~~FALL RIVER~~ HENRY'S FORK

QUANTITY: 3.500 CFS
The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
~~The rights listed below are limited to a total combined diversion rate of 3.5 cfs. Combined Right Nos. 21-114C, 21-12985~~

PRIORITY DATE: 05/01/1922 ~~04/01/1950~~

POINT OF DIVERSION: ~~T08N R42E S35 NENESE~~ T08N R42E S07 NENENE Within FREMONT County

PURPOSE AND PERIOD OF USE:

Purpose of use	Period of use:	Quantity:
IRRIGATION	04/01 10/31	3.500 CFS
STOCKWATER	01/01 12/31	0.040 CFS

PLACE OF USE: IRRIGATION within FREMONT County
T08N R41E S12 Lot 1 SENE 31.0
T08N R42E S06 Lot 9 NESW 21.0
T08N R42E S06 SESW 40.0
T08N R42E S06 NESE 39.0
T08N R42E S06 Lot 14 NWSE 32.0
T08N R42E S06 SWSE 40.0
T08N R42E S06 SESE 40.0
T08N R42E S07 NENE 40.0
T08N R42E S07 NWNE 40.0
T08N R42E S07 NENW 40.0
T08N R42E S07 Lot 1 NWNW 27.0
T08N R42E S07 Lot 2 SWNW 30.0

STOCKWATER Same As IRRIGATION
420 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 420 acres in a single irrigation season. Combined Right Nos.: 21-114C, 21-115A, 21-115B, 21-12985, 21-12991

~~This right is limited to the irrigation of 363 acres within the place of use described above in a single irrigation season.~~

SS
OK
NBS

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.

This right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Water is delivered through North Fremont Canal System (Farmers Own Canal).

CERTIFICATE OF MAILING

I certify that on April 14, 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

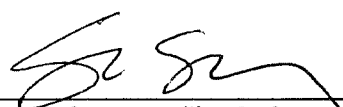
2. Copies to:

DONNA T & ROBERT E FUCHS
DONNA T FUCHS
ROBERT E FUCHS

Represented by:
SCOTT J SMITH
201 E CENTER
PO BOX 1391
POCATELLO, ID 83204-1391
Phone: 208-232-6101

UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC O33
BOISE, ID 83724

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



Signature of person mailing the form