

2337

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

AUG 25 2011

By _____
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. 63-33406
	)	
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.

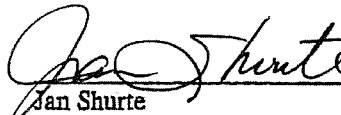
The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions 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:
EG Johnson Farms, Inc.

John M. Marshall 8/18/2011
John M. Marshall Date
Attorney for Claimant/Objector

IDWR Concurrence:

 8/23/11
Jan Shurte Date
Adjudication Supervisor

 8/11/11
Andrea L. Courtney Date
Deputy Attorney General
Attorney for IDWR

SF5 Right No. 63-33406

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

RIGHT NUMBER: 63-33406

NAME AND ADDRESS: E G JOHNSON FARMS INC
24007 HWY 20-26
PARMA ID 83660

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 3.800 CFS

This right remains in the Boise River to be used for mitigation of Right Nos. 63-4036A, 63-4036B, 63-28751 and 63-32394.

~~This right mitigates for the depletion of water resulting from the diversion and use of water under Right Nos. 63-4036A, 63-4036B, 63-28751 and 63-32394. To prevent injury to other water right holders, the right holder shall cease diverting 3.8 cfs of this right from the Boise River. If this right is used for any other purpose, then water shall not be diverted under Right Nos. 63-4036A, 63-4036B, 63-28751 and 63-32394. If the mitigation portion of this right is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under the uses of Right 63-4036A, 63-4036B, 63-28751 and 63-32394 that are being mitigated shall be reduced by the same proportion as the reduction to this right.~~

Whenever it becomes necessary for the watermaster to deliver this right the following condition shall apply. This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and proceeding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 06/01/1865

POINT OF DIVERSION:

T05N R05W S25 SWSW Lot 9 Within Canyon County

T05N R05W S25 SWSE Lot 2 Within CANYON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03/01 11/15	0.560 CFS
MITIGATION	03/01 11/15	3.800 3.24 CFS

Diversion for any water use under this water right prior to April 1 and after October 31 shall occur only when the natural flow in the Boise River below the Star Bridge in Township 04 North, Range 01 West, Section 18, NEW of

SF5 Right No. 63-33406

SF5 Right No. 63-33406

the SE¼ of the SE¼, Boise Meridian (approximate river mile 33.9) is sufficient for water to be available for diversion at the point of diversion described above, provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE: IRRIGATION in CANYON County

T05N R05W S25 SWSW 27.90

MITIGATION in CANYON County

T05N R05W S25	NENE	T05N R05W S25	NWNE
T05N R05W S25	SWNE	T05N R05W S25	SENE
T05N R05W S25	NENW	T05N R05W S25 Lot 6	NWNW
T05N R05W S25 Lot 5	SWNW	T05N R05W S25 Lot 5	SENW
T05N R05W S25 Lot 4	NESW	T05N R05W S25 Lot 4	NWSW
T05N R05W S25 Lot 3	SWSW	T05N R05W S25 Lot 1	NESE
T05N R05W S25 Lot 3	SESW	T05N R05W S25 Lot 2	SWSE
T05N R05W S25	NWSE	T05N R05W S36 Lot 3	NWNE
T05N R05W S25 Lot 1	SESE		

This right and Right No. 63-3585 are limited to the irrigation of a combined Total of 27.9 acres 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 - Decreed

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

This right is a split of Right No. 63-160 which is also designated as Right No. 28 in the Boise River Stewart Decree and Boise River Water Distribution Report.

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

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

CERTIFICATE OF MAILING

I certify that on August 24, 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:

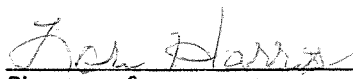
1. Original to:

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:

E G JOHNSON FARMS INC
Represented by:
JOHN M. MARSHALL
575 W. BANNOCK STREET, SUITE B
BOISE, ID 83702

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



Signature of person or attorney