

124  
RECEIVED

MAR 11 1997

Department of Water Resources

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     | ) | STANDARD FORM 5          |
|                | ) |                          |
| Case No. 39576 | ) |                          |
|                | ) | SUBCASE NO: 36-00043A    |
|                | ) |                          |
|                | ) | STIPULATED ELEMENTS OF A |
|                | ) | WATER RIGHT              |

---

**THIS FORM MAY ONLY BE USED IF ALL PARTIES HAVE STIPULATED TO ALL ELEMENTS OF ONE WATER RIGHT AND MAY BE SUBMITTED AT ANY TIME FOLLOWING THE CLOSE OF THE STATUTORY RESPONSE PERIOD.**

**INSTRUCTIONS**

This form has been adopted by the court in SRBA Administrative Order 1, Rules of Procedure (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

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; and 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.

**A copy of this water right as recommended in the Director's Report shall be submitted with this form. A statement shall accompany each element of a water right.**

Elements where there has been no objection should be listed exactly as they appear in the director's report. The statement as to these uncontested elements shall state "as recommended in the director's report."

Contested elements that are the result of an objection filed with the court shall be accompanied by a statement fully describing all facts, documents, expert opinions and law which support the element of the water right (attach additional pages if necessary).

### **Statement and Stipulation of Parties and IDWR**

Claimants/Parties and IDWR agree that the above referenced water right should be as described in the attached printout entitled Recommended Water Rights Under State Law.

### **Review By IDWR**

To speed up entry of a decree, the parties are encouraged to talk to the Idaho Department of Water Resources about their proposed settlement and have IDWR indicate its concurrence by signing the Standard Form 5.

Where all parties have signed, a Standard Form 5 may be filed with the court without the concurrence of IDWR. However, the parties must certify that they have served IDWR with a copy of the Standard Form 5 and that they have made a good faith attempt to resolve the matter with IDWR.

Within 14 days of filing a Standard Form 5 not containing an IDWR concurrence, IDWR shall file a statement of its position with the court.

If IDWR has not concurred by signing below, signing parties certify that they have served a copy of this document on the Idaho Department of Water Resources and have made a good faith attempt to obtain IDWR's concurrence, but have failed.

**Signatures and Addresses of Parties and their Attorney of Record** (attach additional page if necessary):

I have read this form and know its contents and that the statements are true to the best of my knowledge.

Name: Nevada B. Omohundro

Address: ~~Rt. 1, Box 235~~ 2901 S 1050 E

City/State/Zip: Hagerman, ID 83332

Attorney of Record: None

Name: Idaho Dept. of Water Resources

Address: P.O. Box 83720

City/State/Zip: Boise, ID 83720-0098

Attorney of Record: Charles L. Honsinger

Nevada B Omohundro 3/8/97 Charles L. Honsinger 03/04/97  
Party's Signature Date Attorney's Signature Date

Name: United States of America on behalf of

U.S. Fish & Wildlife Service

Address: c/o U.S. Dept. Of Justice

Envl. and Nat. Resources Div.

999 18th Street, Suite 945

City/State: Denver, CO 80202

Attorney of Record: James J. DuBois

James J. DuBois 3/17/97  
Attorney's Signature Date

AJ5856NP

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

DATE: FEB-27-1997

PAGE: A-1

-----  
RIGHTS FROM: SOURCE: LEN LEWIS SPRING TRIBUTARY: RILEY CREEK  
-----

RIGHT NUMBER: 36-00043A

NAME & ADDRESS: NEVADA B OMOHUNDRO  
2901 S 1050 E  
HAGERMAN ID 83332

SOURCE: LEN LEWIS SPRING TRIBUTARY: RILEY CREEK

QUANTITY: 1.4 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE  
SHALL NOT EXCEED 13,000 GALLONS PER DAY.

THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER  
DESCRIBED FOR STOCK WATER PURPOSES AT A POINT OF MEASUREMENT  
WHERE THE DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED.

USE OF THIS RIGHT WITH RIGHT NOS. 36-00012, 36-00030,  
36-00084, 36-00104A AND 36-00104B FOR STOCKWATER OR OTHER  
NON-IRRIGATION PURPOSES OUTSIDE OF THE IRRIGATION SEASON SHALL BE  
LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 4.0 CFS.

PRIORITY DATE: 09/01/1889

POINT OF DIVERSION: T08S R14E S06 SESWNE Within GOODING County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE     | QUANTITY |
|-------------------------------|----------------|-------------------|----------|
| IRRIGATION                    |                | Irrigation Season | 1.4 CFS  |
| STOCKWATER                    |                | 01-01 12-31       | 0.02 CFS |

PLACE OF USE: IRRIGATION Within GOODING County  
T07S R13E S25 SESW 12.0  
12.0 ACRES TOTAL

Place of use for STOCKWATER is same as IRRIGATION

CONSUMPTIVE USE: 42.0 AFY

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.

THE OPERATION AND ADMINISTRATION OF THIS WATER RIGHT IS ALSO  
SUBJECT TO THE STIPULATION DATED SEPTEMBER 11, 1996, AMONG THE  
UNITED STATES OF AMERICA AND THE CLAIMANTS UNDER THE BRAILSFORD  
DITCH, WHICH IS ON FILE IN THE RECORDS OF THE CLERK AND RECORDER,  
GOODING CO., IDAHO.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

AJ5856NP

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

DATE: FEB-27-1997

PAGE: A-2

-----  
RIGHTS FROM: SOURCE: LEN LEWIS SPRING TRIBUTARY: RILEY CREEK  
-----

RIGHT NUMBER: 36-00043A (CONT)

EXPLANATORY MATERIAL: (CONT)

WATER IS DELIVERED THROUGH BRAILSFORD DITCH.

CERTIFICATE OF MAILING

I certify that on this 19th day of March, 1997, I mailed the original and copies of this Standard Form 5, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

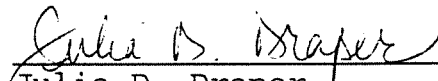
Clerk of the District Court  
Snake River Basin Adjudication  
253 Third Avenue North  
P.O. Box 2707  
Twin Falls, Idaho 83303-2707

2. Copies to:

Nevada Omohundro  
2901 S. 1050 E  
Hagerman, ID 83332

IDWR Document Depository  
P. O. Box 83720  
Boise, ID 83720-0098

United States Department of Justice  
Environment & Natural Resources  
Division  
550 West Fort Street, MSC 033  
Boise, Idaho 83724

  
\_\_\_\_\_  
Julia D. Draper



U.S. Department of Justice

Environment and Natural Resources Division

WMC:JDDraper

90-6-2-63C

General Litigation Section  
Denver Field Office

Julia D. Draper, Paralegal Specialist  
U.S. Department of Justice  
999 18th Street, Suite 945  
Denver, CO 80202  
Telephone: (303) 312-7344  
Fax No: (303) 312-7331

RECEIVED

MAR 24 1997

March 19, 1997

Department of Water Resources

Diana R. Delaney, Chief Deputy Clerk  
DISTRICT COURT  
P. O. Box 2707  
Twin Falls, ID 83303-2707

Re: SRBA Case No.: 39576  
Subcase No.: 36-00043A  
Claimant: Nevada Omohundro

Dear Diana:

Enclosed for filing is the original and one copy of the **Standard Form 5** for the above matter. We have reached agreement with Charles Honsinger, attorney for IDWR, and he concurs with the filing.

Respectfully,

Julia D. Draper,  
Paralegal Specialist

/jdd  
enclosures  
c: Certificate of Mailing