

234

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

DEC 27 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 Case No. 39576 _____	)))))))	Subcase No. 75-00026A 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:

City of Salmon

OBJECTOR/RESPONDENT:

Dale Edwards, Laura Edwards &
Myrtle Edwards

Josephine P. Beeman Dec 2011

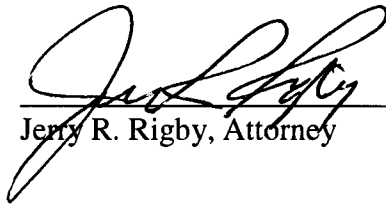
Josephine P. Beeman, Attorney Date

Randall C. Budge 12/9/11

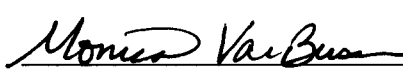
Randall C. Budge, Attorney Date

OBJECTOR:

Arrowhead Water District

 12-8-11
Jerry R. Rigby, Attorney Date

IDWR Concurrence:

 12/5/2011
Monica Van Bussum Date
Senior Water Resource Agent

 12/4/2011
Garrick L. Baxter Date
Deputy Attorney General
Attorney for IDWR

CERTIFICATE OF MAILING

I certify that on December 23, 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

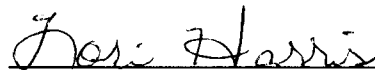
Copies to:

ARROWHEAD WATER DISTRICT
Represented by:
JERRY R. RIGBY
25 N 2ND E
PO BOX 250
REXBURG, ID 83440-0250

CITY OF SALMON
Represented by:
JOSEPHINE P BEEMAN
409 W JEFFERSON ST
BOISE, ID 83702

DALE EDWARDS
LAURA EDWARDS
MYRTLE EDWARDS
Represented by:
RANDALL C BUDGE
201 E CENTER, STE A2
PO BOX 1391
POCATELLO, ID 83204-1391

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



Signature of person or attorney mailing form

10/07/2011

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

RIGHT NUMBER: 75-26A

NAME AND ADDRESS: CITY OF SALMON
200 MAIN ST
SALMON ID 83467

SOURCE: JESSE CREEK

TRIBUTARY: SALMON RIVER

Water is diverted from Jesse Creek and its tributaries.

For purposes of administration of sources for this right, the water shall first be diverted exclusively from the natural flow of Jesse Creek. When Jesse Creek is no longer sufficient for use under the rights in priority and calling for water, the waters of Pollard Canyon Creek may be diverted as necessary to provide the balance of water required pursuant to this right in its priority. Only when the water supply from Jesse and Pollard Canyon Creeks combined is not sufficient for use under the rights in priority and calling for water may Chipps Creek be diverted to provide the balance of water required pursuant to this right in its priority.

The holder of this right will not call for water from Chipps Creek or Pollard Canyon Creek prior to August 1 of any year if diversions under Right Nos. 75-2 or 75-5 would be affected. This condition applied to all current and future splits of all rights referenced here. This condition does not limit diversions from Jesse Creek under this right. This condition is not applicable anytime the total flow available for diversion in Water District 75A is 3.8 cfs or less, recognizing that no more than 2.54 cfs can be diverted from Chipps Creek or Pollard Canyon Creek under water rights 75-17B and 75-10075.

The holder of this right will not call for water from Chipps Creek prior to August 30 of any year if diversions under Right No. 75-22 would be affected. This condition applies to all current and future splits of all rights referenced here. This condition does not limit diversions from Jesse Creek or Pollard Canyon Creek under this right. This condition is not applicable anytime the total flow available for diversion in Water District 75A is 3.8 cfs or less, recognizing that no more than 2.54 cfs can be diverted from Chipps Creek or Pollard Canyon Creek under water rights 75-17B and 75-10075.

QUANTITY: 0.300 CFS
52.50-APY

Right Nos. 75-4, 75-7, 75-17A, 75-17B, 75-19B, 75-19C, 75-26A, 75-114, 75-2167, 75-7563 and 75-10075 are limited to a total combined diversion rate of 11.793 11.6 cfs.

Right Nos. 75-4, 75-7, 75-17A, 75-17B, 75-19B, 75-19C, 75-26A, 75-114, and 75-10075 are limited to a total combined annual diversion volume of 1740.5 AF, with no more than 970.5 AF diverted from Chipps and Pollard Canyon Creeks.

The total flow available for diversion in Water District 75A is the sum of all water being diverted above the Farmer's Ditch, water being diverted into the Farmer's Ditch, and the quantity of water spilling and seeping past the Farmer's Ditch diversion. The Farmer's Ditch diversion is located in T21N, R21E, S1, SWNW.

PRIORITY DATE: 05/01/1884

AB
M/B JPB
JRL
RUB

10/07/2011

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

POINT OF
DIVERSION:

T21N R21E S2 NENE Lot 1 Within LEMHI County
T21N R21E S2 NENE Lot 1 Rediversion Within LEMHI County
T21N R21E S2 NENE Lot 1 Injection Within LEMHI County
T21N R21E S2-SWSW S10 NENE Injection Within LEMHI County
T21N R21E S2-SWSW S10 NENE Within LEMHI County
T21N R21E S2-SWSW S10 NENE Rediversion Within LEMHI County
T21N R21E S11 NWNW Within LEMHI County

The point of diversion in T21N, R21E, S11, NWNW is from Chipps Creek. The point of injection in T21N, R21E, S02-SWSW S10 NENE is into Pollard Canyon Creek. The point of diversion and the point of rediversion in T21N, R21E, S02-SWSW S10 NENE are from Pollard Canyon Creek. The point of injection in T21N, R21E, S02, Lot 1 (NENE) is into Jesse Creek. The point of diversion and the point of rediversion in T21N, R21E, S02, Lot 1 (NENE) are from Jesse Creek.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MUNICIPAL	04/01 10/31	0.300 CFS 52.50 AFY

PLACE OF USE:

Place of use is within the service area of the City of Salmon municipal water supply system as provided for under Idaho Law.

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.

This water right is subject to a private agreement among the City of Salmon, Myrtle, Dale and Laura Edwards and Arrowhead Water District, and recorded in the Lemhi County Recorder's office on December 1, 2011 as instrument no. 288296.

The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 75A.

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