

NICHOLAS B. SPENCER  
 Deputy Attorney General  
 Idaho Department of Water Resources  
 P.O. Box 44449  
 Boise, ID 83711-4449  
 Telephone: (208) 327-7920  
 Fax: (208) 327-7866

Attorney for IDWR

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

Sub-case No.: 36-14805A

STIPULATION

DESCRIPTIVE SUMMARY

This is a stipulation to resolve the objection to water right number 36-14805A.

STIPULATION

To resolve the dispute over the above-captioned water rights, the Idaho Department of Water Resources (IDWR), and Carl E. Jackson and Nancy J. Jackson (the objectors) and Diane C. Oden and Stuart Williams (the claimants), stipulate and agree that:

1. The Standard Form 5 for water right no. 36-14805A, attached hereto and incorporated by reference herein, sets forth the description of the water right as agreed by IDWR and the parties. All decrees, whether partial or final, should describe the

water rights as shown in the Standard Form 5.

2. This water right was originally claimed as right no. 36-14805, by Gary D. Stokes. As claimed by Mr. Stokes, the right represented his two thirds ownership interest in a community well providing domestic and stockwater for three homes. The remaining one third interest in the community well was owned, and continues to be owned, by Carl E. Jackson and Nancy J. Jackson.

3. Another claim for domestic and stockwater for the same three homes was filed by Carl E. Jackson and Nancy J. Jackson. That claim was assigned no. 36-14574. Water right no. 36-14574, as recommended in the director's report for Basin 36 (Reporting Area 3), represents the Jacksons' one-third interest in the community well and is not the subject of an objection.

4. Subsequent to his filing the notice of claim for water right no. 36-14805, Gary D. Stokes conveyed one half of his two thirds ownership interest in the community well to Carl E. Jackson and Nancy J. Jackson. Therefore, following this conveyance, Mr. Stokes retained ownership of a one-third interest in the community well, and Mr. and Mrs. Jackson owned a two-thirds interest in the well.

5. Gary D. Stokes then conveyed his remaining one-third interest in the community well to Robbi I. Feela and Timothy Feela.<sup>1</sup>

6. Following notification of these changes of ownership, IDWR split water

---

<sup>1</sup> Mr. and Mrs. Feela have since conveyed their interest to I.W. Land Company. The Feelas' interest in the community well is recommended as water right no. 36-14805B, and is not subject to an objection. Therefore, neither the Feelas nor I.W. Land Company are parties to this stipulation. The Feelas and I.W. Land Company have not yet filed a change of ownership form with IDWR.

right no. 36-14805 into no. 36-14805A, representing the one-third ownership interest in the community well conveyed by Mr. Stokes to Mr. and Mrs. Jackson, and 36-14805B, representing the one-third ownership interest conveyed by Mr. Stokes to Mr. and Mrs. Feela. These rights, as so split, were recommended in the director's report.

7. However, shortly before the director's report was filed, Mr. and Mrs. Jackson conveyed the one-third interest in the community well represented by water right no. 36-14805A to Mr. Stuart Williams and Ms. Diane C. Oden. When IDWR received notification of this change of ownership, following the filing of the director's report, it changed its ownership records. However, IDWR incorrectly added Mr. Williams and Ms. Oden as co-owners of water right no. 36-14805A, rather than substituting them for Mr. and Mrs. Jackson.

8. Mr. and Mrs. Jackson subsequently objected to recommended water right no. 36-14805A in order to clarify the ownership of the right. IDWR incorrectly understood their objection to mean that Mr. and Mrs. Jackson had conveyed a portion of their interest in water right no. 36-14805A, rather than the entire one-third interest represented by that water right, to Mr. Williams and Ms. Oden. Accordingly, in its response to the objection IDWR recommended that the water right be further split, into parts "C" and "D". To this end, with its response it submitted corrected recommendations striking water right no. 36-14805A and substituting recommended water rights 36-14805C, in the names of Mr. and Mrs. Jackson, and no. 36-14805D, in the names of Mr. Williams and Ms. Oden. Since these "corrected" recommendations are in error, pursuant to this stipulation they are to be deemed withdrawn.

9. Because of the confusion over the conveyances of fractional interests in the community well, water rights no. 36-14574, no. 36-14805A and no. 36-14805B, as recommended in the director's report, incorrectly state certain elements of the rights, which must be corrected. Exhibit A, attached hereto and incorporated herein by reference, corrects those elements of water right no. 36-14805A. The parties to this subcase hereby stipulate and agree that water right no. 36-14805A as described in Exhibit A, and as described in the Standard Form 5 to which this stipulation is attached, correctly describes the water right. The Standard Form 5 is incorporated herein and made a part of this stipulation.

10. Water rights no. 36-14574 and no. 36-14805B, as recommended in the director's report have not been objected to by the claimants to them, or by anyone else. However, portions of them are recommended incorrectly. IDWR will subsequently file a motion to correct the errors in those recommended rights, or, if appropriate, will submit corrected recommendations to the SRBA Court in its supplemental director's report.

11. The Standard Form 5 and this stipulation have been reached through good faith negotiations for the purpose of resolving legal disputes, including pending litigation, and all parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest or be used in any legal proceeding, and that this agreement is not and shall not be used as precedent for any other claim to a water right.

12. All parties agree to bear their own costs and attorney's fees in connection with this matter.

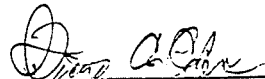
13. The Standard Form 5 and this stipulation were entered into and executed voluntarily by all parties in good faith, and without any fraud, misunderstanding, overreaching, misrepresentation, duress, or undue influence whatsoever.

Dated this 6<sup>th</sup> day of July, 1995.



Nicholas B. Spencer  
Deputy Attorney General  
Idaho Department of Water Resources

Dated this 8<sup>th</sup> day of July, 1995.



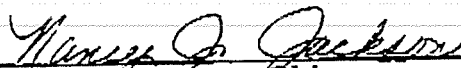
Diane C. Oden - Claimant

Dated this 8<sup>th</sup> day of July, 1995.



Stuart Williams - Claimant

Dated this 28<sup>th</sup> day of June, 1995.



Nancy J. Jackson - Objector

Dated this 28<sup>th</sup> day of June, 1995.



Carl E. Jackson - Objector

RIGHT  
NUMBER

NAME &amp; ADDRESS

PRIORITY  
DATE

PURPOSE OF USE

PERIOD OF USE  
FROM TOMAXIMUM  
QUANTITY

BASIS OF CLAIM

SOURCE: GROUNDWATER

IRRIQUARY:

36-14805A

DIANE C ODEN  
STUART WILLIAMS  
304 E 350 N  
JEROME ID 8333806/29/1930 DOMESTIC  
STOCKWATER01-01 12-31  
01-01 12-310.04 CFS  
0.02 CFS

CFS BENEFICIAL USE

MARCY J JACKSON  
832 16TH AVE E  
JEROME ID 83338GARY E JACKSON  
832 26TH AVE E  
JEROME ID 83338

TOTAL QUANTITY:

0.06 CFS  
0.04 CFS

## NON-IRRIGATION USES:

DOMESTIC, 1 HOME: STOCKWATER, 50 CATTLE  
DOMESTIC, 1 HOME: STOCKWATER, 700 PASTURE

## POINT OF DIVERSION:

TOTS RITE S34

SUSANNA

## PLACE OF USE: DOMESTIC

TOTS RITE S34

SUNNY

## PLACE OF USE: STOCKWATER

TOTS RITE S34

SUNNY

## REMARKS:

PARCEL NO. RPO7517E363001  
USE OF THIS RIGHT WITH RIGHT NOS. 36-148058 AND 36-14574 IS  
LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.06 CFS.  
PARCEL NOS. RPO7517E363001 & RPO7517E363002