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Department of Water Resources
Adjudication Bureau

OFFICE OF THE
ATTORNEY GENERAL

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)
STANDARD FORM 5
SUBCASE NO: 34-11568
STIPULATED ELEMENTS OF A
WATER RIGHT

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

This form is used to report the proposed elements of one federal reserved water right or one water right acquired under state law. Submission of this form will not result in the automatic 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 have appeared, prosecuted and defended their positions with regard to this water right dispute.

Instructions For Use

Elements where there has been no objection should be listed exactly as they appear in the director's report. The statement as to an uncontested element 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).

1. The name and address of the claimant is:

UNITED STATES OF AMERICA ACTING THROUGH
USDA FOREST SERVICE
324 25TH STREET
ODGEN, UTAH 84401-2394

Required Statement: As recommended in the director's report.

2. The source of water is:

Source: BADY CREEK Tributary: BIG LOST RIVER

Required Statement: As recommended in the director's report.

3. The quantity of water used in cubic feet per second (CFS) or the quantity of water stored in acre-feet per year (AFY) is:

STOCKWATER: 0.03 CFS
TOTAL QUANTITY: 0.03 CFS

THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT.

Required Statement: As recommended in the director's report.

4. The priority date is: 03/02/1902.

Required Statement: IDWR and the parties stipulate that this is the correct priority date.

5. The legal description of the point(s) of diversion is; if the claim is for an instream flow, then a legal description of the beginning and ending points of the claimed instream flow:

THE BEGINNING POINT FOR THIS INSTREAM FLOW IS T07N R21E S16 NESWNW. THE
THE ENDING POINT FOR THIS INSTREAM FLOW IS T07N R20E S01 NENWNE.

Required Statement: As recommended in the director's report.

6. The purpose of use is: STOCKWATER

NON-IRRIGATION USES: STOCKWATER - 1848 RANGE CATTLE.

Required Statement: As recommended in the director's report.

7. The period of year when the water is to be used is:

STOCKWATER 06-01 to 10-31

Required Statement: As recommended in the director's report.

8. The legal description of the place of use or of the reservation is:

T07N R20E S01	NENE	NWNE	SENE				
T07N R21E S06	SWNW	NENW	NWSW	SESW	SWSE	SESE	
T07N R21E S07	NENE						
T07N R21E S08	NWNW	SWNW	SENW	NESW	NWSE	SWSE	
T07N R21E S16	NWNW	SWNW					
T07N R21E S17	NENE	NWNE					

FOREST SERVICE RECORD ID 04061704021814 9991.

Required Statement: As recommended in the director's report. The place of use is located in Custer County, Idaho.

9. The annual volume of consumptive use is: 0.03 CFS.

Required Statement: As recommended in the director's report.

10. Other matters necessary to define this water right: Not applicable.

These matters are necessary because: Not applicable.

These matters do not fall within the 9 elements listed above because:
Not applicable.

The stipulation of the parties is attached hereto and incorporated herein by reference.

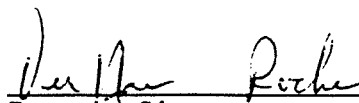
Signature and Address of Parties and their Attorney of Record (attach additional page if necessary)

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

Name: Idaho Dept. of Water Resources
Address: P.O. Box 83720
City/State/Zip: Boise, ID 83720-0098
Attorney of Record: Susan E. Hamlin
A. Lynne Krogh

Name: VerNon Roche
Address: Star Route
City/State/Zip: Mackay, Idaho 83251
Attorney of Record:

Attorney's Signature Date

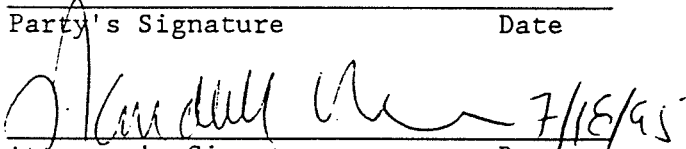
 5-1-95

Party's Signature Date

Attorney's Signature Date

Name: United States on behalf of the
USDA Forest Service through the
Department of Justice
Address: 380 E. Parkcenter, Suite 330
City/State: Boise, Idaho 83706
Attorney of Record: Randall J. Bramer

Party's Signature Date

 7/18/95

Attorney's Signature Date

INSTRUCTIONS FOR MAILING

You must mail the form, including all attachments, to the Clerk of the SRBA Court and to the parties indentified in the Certificate of Mailing. FAX filings will not be accepted by the SRBA Clerk of the Court.

You must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I certify that on July 18TH, 1995, 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:

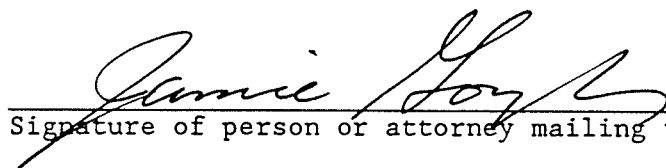
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 83702
Boise, ID 83720-0098

United Stated on behalf of the
USDA Forest Service through the
Department of Justice
380 E. Parkcenter, Suite 330
Boise, ID 83706

VerNon Roche
Star Route
Mackay, ID 83251


Signature of person or attorney mailing the form

A. LYNNE KROGH
SUSAN E. HAMLIN
Deputy Attorneys General
Idaho Department of Water Resources
P.O. Box 44449
Boise, ID 83711-4449
Telephone: (208) 327-7920
Fax: (208) 327-7866

Attorneys 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	)	Sub-case No. 34-11568
	)	
	)	
Case No. 39576	)	
	)	
	)	STIPULATION
	)	

DESCRIPTIVE SUMMARY

This is a stipulation to resolve the objection to water right number 34-11568.

STIPULATION

To resolve the dispute over the above-captioned water rights, the Idaho Department of Water Resources (IDWR), the United States of America (the claimant), and VerNon Roche (the objector), stipulate and agree that:

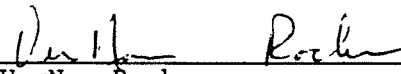
1. The Standard Form 5 for water right number listed above, attached hereto and incorporated by reference herein, sets forth the description of the water right as agreed by IDWR and the parties. All decrees, whether partial or final, should describe the water right agreed to by IDWR and the parties.

2. 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.

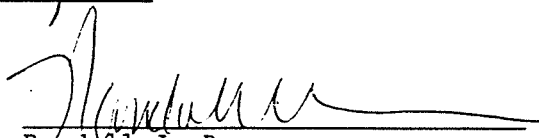
3. All parties agree to bear their own costs and attorney's fees in connection with this matter.

4. The Standard Form 5 and the 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 1 day of May, 1995.


Vernon Roche
Objector

Dated this 18 day of July, 1995.


Randall J. Bramer
Attorney
United States Department of Agriculture
United States of behalf
of the USDA Forest Service
through the Department of Justice

Dated this _____ day of _____, 1995.

A.Lynne Krogh
Deputy Attorney General
Idaho Department of Water Resources

Susan E. Hamlin
Deputy Attorney General
Idaho Department of Water Resources