

825

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:
36-00134A

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:

WALTER CANDY
MARGARET CANDY
2946 SOUTH 1175 EAST
PO BOX 625
HAGERMAN ID 83332

Required Statement: IDWR and the parties stipulate that this is the correct description of the names and address of the claimant.

2. The source of water is:

Source: MARTIN-CURREN TUNNEL

Tributary: BILLINGSLEY CREEK

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

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

DOMESTIC	0.04	CFS
IRRIGATION	0.49	CFS
TOTAL QUANTITY:	0.49	CFS

Required Statement: IDWR and the parties stipulate that this is the correct description of the quantity of water used. IDWR and the claimant agree and recognize that the total quantity is not equal to the sum of the quantities for each purpose of use.

4. The priority date is: 10/09/1884

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

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:

T07S R14E S32 SESWNW

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 36-00102, 36-00134B, 36-00134C, 36-00135A, 36-00135B, 36-00135C, 36-02551, 36-07694, 36-10140 AND 36-10142.

Required Statement: As recommended in the director's report. The claim is not for an instream flow.

6. The purpose of use is:

DOMESTIC
IRRIGATION

NON-IRRIGATION USES: DOMESTIC, 2 HOMES

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

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

DOMESTIC	01-01 to 12-31
IRRIGATION	03-15 to 11-15

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

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

PLACE OF USE: DOMESTIC
T07S R14E S32 NWSW

PLACE OF USE: IRRIGATION
T07S R14E S31 SENE 10.0 (acres), NESE 20.0 (acres)
S32 SWNW 1.0 (acres), NWSW 5.0 (acres)
36.0 ACRES TOTAL

**USE OF THIS RIGHT WITH RIGHT NO. 36-00135B IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 36.0 ACRES IN A SINGLE
IRRIGATION SEASON.**

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

9. The annual volume of consumptive use is:

**USE OF THIS RIGHT WITH RIGHT NO. 36-00135B IS LIMITED TO A
TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 108 AF.**

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

10. Other matters necessary to define this water right.

These matters are necessary because: Not applicable.

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

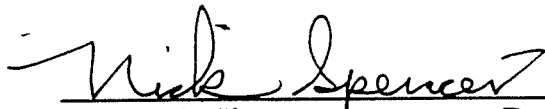
Signature and Address of Parties and their Attorney of Record

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

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

Name: Idaho Dept. of Water Resources
Address: P.O. Box 83720
City/State/Zip: Boise, ID 83720-0098
Attorney of Record: Nicholas B. Spencer

Name: Walter W. and Margaret Candy
Address: Route 1
City/State/Zip: Hagerman, ID 83332
Attorney of Record: Patrick D. Brown


Attorney's Signature 8-23-95
Date


Attorney's Signature 8/24/95
Date

INSTRUCTIONS FOR MAILING

You must mail the form, including all attachments, to the Clerk of the SRBA Court and to the parties identified 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 8/25, 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:

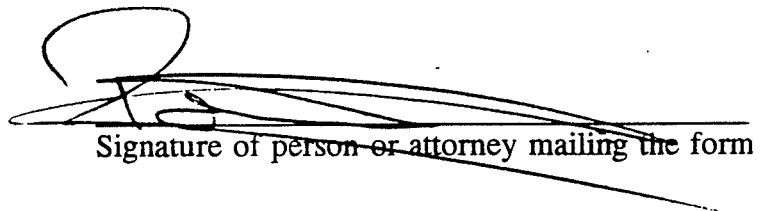
1. Original to:

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 44449
Boise, ID 83711-4449

~~Patrick D. Brown
Hepworth, Lezamiz & Hohnhorst,
Chartered
P.O. Box 389
Twin Falls, ID 83303-0389~~


Signature of person or attorney mailing the form

COPY

RECEIVED

AUG 30 1995

OFFICE OF THE
ATTORNEY GENERAL

NICHOLAS B. SPENCER
Deputy Attorney General
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
Telephone: (208) 327-7900
Fax: (208) 327-5400

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	)	Sub-case No.
	)	36-00134A
Case No. 39576	)	
	)	
	)	STIPULATION
	)	

DESCRIPTIVE SUMMARY

This is a stipulation to resolve the objection to water right number 36-00134A.

STIPULATION

To resolve the dispute over the above-captioned water right, the Idaho Department of Water Resources (IDWR), and Walter W. and Margaret Candy (the claimant/objector) stipulate and agree that:

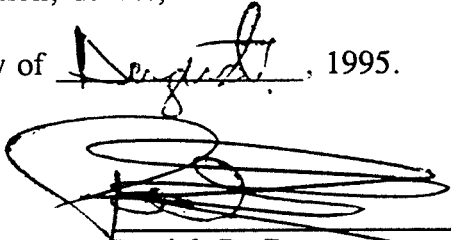
1. The Standard Form 5 for water right no. 36-00134A, attached hereto and incorporated by reference herein, sets forth the description of the water right as agreed by IDWR and the parties. All decrees, whether partial or final, should describe the water right as shown in the standard form 5.

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 resolution, either through settlement or litigation, of 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.

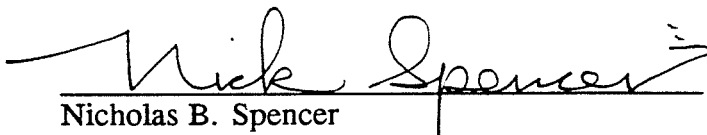
4. The Standard Form 5 and this stipulation were entered into and executed voluntarily by all parties in good faith, and without any fraud, misunderstanding, overreaching, misrepresentation, duress, or undue influence whatsoever.

Dated this 24 day of August, 1995.



Patrick D. Brown
Attorney for claimant/objector

Dated this 23rd day of AUGUST, 1995



Nicholas B. Spencer
Deputy Attorney General
Idaho 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:
	)	36-00135B
	)	
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2. The source of water is:

Source: MARTIN-CURREN TUNNEL Tributary: BILLINGSLEY CREEK

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

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

IRRIGATION	0.51	CFS
TOTAL QUANTITY:	0.51	CFS

Required Statement: IDWR and the parties stipulate that this is the correct description of the quantity of water used.

4. The priority date is: 04/01/1908

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

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:

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Required Statement: As recommended in the director's report. The claim is not for an instream flow.

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IRRIGATION

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

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IRRIGATION 03-15 to 11-15

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

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

PLACE OF USE: IRRIGATION

T07S R14E S31 SENE 10.0 (acres), NESE 20.0 (acres)

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

9. The annual volume of consumptive use is:

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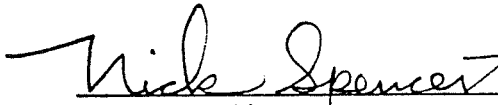
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 8-23-95
Attorney's Signature Date

 8/29/95
Attorney's Signature Date

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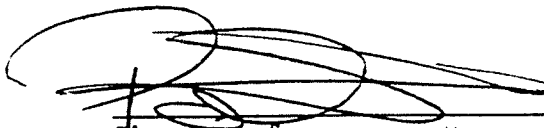
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Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

~~Patrick D. Brown
Hepworth, Lezamiz & Hohnhorst,
Chartered
P.O. Box 389
Twin Falls, ID 83303-0389~~



Signature of person or attorney mailing the form

