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Department of Water Resources
Adjudication Bureau

9-11

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	)	Subcase No. 34-04040-2
	)	
Case No. 39576	)	STIPULATION
	)	
_____	)	

DESCRIPTIVE SUMMARY

This is a stipulation to resolve the objection to water right number 34-04040-2.

STIPULATION

To resolve the dispute over the above-captioned water right, the United States of America (the claimant), and R. Wanda Smith (the objector), stipulate and agree that:

1. Exhibit 1 to the Standard Form 5 for water right no. 34-04040-2, attached hereto and incorporated by reference herein, sets forth the description of the water right as agreed by the parties. All decrees, whether partial or final, should describe the water right as shown on Exhibit 1 to 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 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 1st day of Sept, 1995.

R Wanda Smith

R. Wanda Smith
Objector

Dated this 12 day of August, 1995.

DARIA J. ZANE/R. LEE LEININGER

DARIA J. ZANE/R. LEE LEININGER
Attorneys
General Litigation Section
Env. & Natural Resources Div.
U.S. Department of Justice

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: 34-04040-2

PROPOSED ELEMENTS OF A WATER RIGHT

This form is used to report the stipulated elements of one water right under state law or one water right acquired under 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.

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).

The parties agree that the elements of the water right should be decreed as stated in the Director's Report, copy of which is attached as Exhibit 1.

S. F. 5
12/13/94

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 and belief.

Name: R. Wanda Smith
Address: 138 N. Water Box 827
City/State/Zip: Arco, Idaho 83213
Attorney of Record:

R Wanda Smith
Party's Name Date

Names: United States through
Department of Justice
Address: 601 Pennsylvania Ave., NW
City/State/Zip: Washington, D.C. 20004
Attorney of Record: Daria J. Zane
R. Lee Leininger

R Lee Leininger 7/22/55
Attorney's Signature Date

AJ5856P

Exhibit 1

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

DATE: NOV-17-1992
PAGE: A-36

RICHT
NUMBER

NAME & ADDRESS

PRIORITY
DATE

PURPOSE OF USE
FROM TO

MAXIMUM
QUANTITY

BASIS OF CLAIM

SOURCE: BIG Lost RIVER

TRIBUTARY: SLICKS

34-04040

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706

04/01/1958 WILDLIFE

01-01 12-31

243.0

AFY

BENEFICIAL USE

STORAGE
STOCKWATER FROM 01-01 12-31
STORAGE
STOCKWATER 20.1 AFY
STORAGE
STOCKWATER 01-01 12-31
STORAGE
WILDLIFE FROM 01-01 12-31
STORAGE
DIVERSION TO 01-01 12-31
STORAGE

TOTAL QUANTITY:

243.0 .44 CFS
243.0 AFY

NON-IRRIGATION-USES:

STOCKWATER, 2000 RANGE CATTLE; WILDLIFE, VARIABLE AMOUNT

POINT OF DIVERSION:

102N R28E S11

NAME

PLACE OF USE: WILDLIFE STORAGE

SAME AS OTHER USE

PLACE OF USE: STOCKWATER FROM STORAGE

102N R28E S11

NAME

S13

NAME

S14

NAME

NAME

NAME

NAME

NAME

NAME

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NAME

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 Sep 7, 19995, 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:

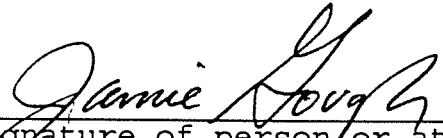
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

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

U.S. Department of Justice
Environment and Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

R. Wanda Smith
138 N. Water Box 827
Arco, ID 83213



Signature of person or attorney
mailing the form