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Department of Water Resources  
Adjudication Bureau

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: 34-12387

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  
c/o National Park Service  
Pacific Northwest Region  
909 First Avenue  
Seattle, WA 98104-1060

Required statement: IDWR and the parties stipulate that this is the correct address as shown by the Standard Form 3 previously filed with the court.

2. The **source** of water is:

Unnamed stream which is a tributary of Little Cottonwood Creek.

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:

Entire flow of the unnamed stream tributary to Little Cottonwood Creek in excess of amount diverted by right no. 34-12385.

Required statement: AS RECOMMENDED IN THE DIRECTOR'S REPORT.

4. The **priority date** is:

July 23, 1928.

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:

The beginning point of instream flow is where the unnamed tributary crosses the exterior boundary of the Monument at approximately 1,300 feet west and 1,000 feet south of the Northeast Corner of S28 , T02N, R24E within the SWNENE S28, T02N, R24E.

The ending point is at the stream's confluence with Little Cottonwood Creek in SESW of unsurveyed S27, T02N, R24E. This is an instream flow.

Required statement: AS RECOMMENDED IN THE DIRECTOR'S REPORT.

6. The **purpose of use** is:

Instream flow uses.

Required statement: AS RECOMMENDED IN THE DIRECTOR'S REPORT.

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

01-01 to 12-31.

Required statement: AS RECOMMENDED IN THE DIRECTOR'S REPORT.

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

Within Area B of the Craters of the Moon National Monument, as shown on Attachment I of the Agreement more particularly described as:

|               |      |      |
|---------------|------|------|
| T02N R24E S27 | SWNW | SENW |
| S28           | NENE | SENE |

Required Statement: AS RECOMMENDED IN THE DIRECTOR'S REPORT. The place of use is located in Blaine and Butte Counties, Idaho.

9. The **annual volume of consumptive use** is:

None other than natural consumption.

Required Statement: AS RECOMMENDED IN THE DIRECTOR'S REPORT.

10. **Other matters** necessary to define this water right:

See water rights agreement between the State of Idaho and the United States for the Craters of the Moon National Monument, signed May 14, 1992 (Agreement).

The basis of this water right is the reservation made under Proclamation No. 1843.

For purposes of the Agreement, the surface water within the boundaries of the Monument and perched ground water underlying the Monument shall be treated as a self-contained water system.

The use of water for fire suppression benefits the public. Water diverted for fire suppression may be taken randomly, without a definition of the specific elements of a recordable water right, and if so diverted for fire suppression, existing water rights will not be diminished.

These matters are necessary because:

IDWR and the parties agree that such revised remarks are appropriate and should be included in the decree in order to more accurately define the water right as it is defined in the negotiated agreement for the Craters of the Moon National Monument.

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

The remarks make reference to provisions in the Agreement which further define the water right, which references are needed to comply with the understanding of the parties and fully define the federal reserved water right.

**Signature and Address of Parties and their Attorney of Record**

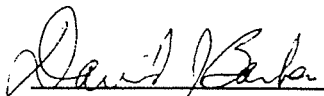
I have read this form and know its contents and that the statements are true to the best of my knowledge and belief.

Name: Idaho Dept. of Water Resources

Address: P.O. Box 83720

City/State/Zip: Boise, ID 83720-0098

Attorney of Record: David J. Barber

 3/31/1995  
Attorney's Signature Date

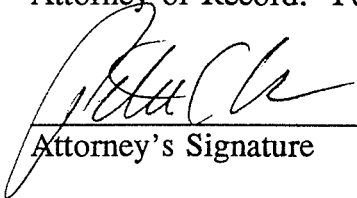
Name: United States through

Address: Dept. of Justice for NPS

550 West Fort Street, Box 33

City/State: Boise, ID 83734

Attorney of Record: Peter C. Monson

 4/6/95  
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 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 April 6, 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:

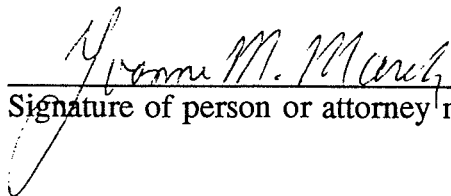
1. Original to:

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

US Dept. of Justice  
Env't. & Nat. Resources Div.  
550 W. Fort St. Box 33  
Boise, ID 83724

  
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Signature of person or attorney mailing the form