

RECEIVED

JUN 06 1995

Department of Water Resources
Adjudication Bureau

5-31

**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: 36-15450**

) **STIPULATED 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).

1. The name and address of the claimant is:

UNITED STATES OF AMERICA ACTING THROUGH
US DEPT OF INTERIOR
FISH & WILDLIFE SERVICE
911 NE 11TH AVENUE
PORTLAND OR 97232-4181

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

2. The source of water is: LEN LEWIS SPRING Tributary: RILEY 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:

FISH PROPAGATION	8.00	CFS (04-15 to 10-15)
FISH PROPAGATION	21.2	CFS (10-16 to 04-14)
TOTAL QUANTITY:	21.2	CFS

FACILITY VOLUME 43,275 CU.FT.

USE OF THIS RIGHT WITH RIGHT NOS. 36-00128, 36-00130, 36-00132, 36-15444, 36-15446, 36-15448, 36-15449 & 36-15451 IS LIMITED TO A TOTAL COMBINED FACILITY VOLUME OF 252,000 CU.FT.

Required Statement: 8.0 cfs is the limit during a part of the year, 21.2 cfs is the limit the rest of the year. The quantity is as recommended in the director's report, but the period of year during which the 8.0 cfs and 21.2 cfs limits apply are different than as recommended in the director's report (see item #7).

4. The priority date is: 01/01/1950

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:

T08S R14E S06 SESWNE

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

6. The purpose of use is: FISH PROPAGATION

NON-IRRIGATION USES: FISH PROPAGATION - 103 RACEWAYS, 66 TANKS

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

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

FISH PROPAGATION	04-15 to 10-15	(8.0 cfs)
FISH PROPAGATION	10-16 to 04-14	(21.2 cfs)

Required Statement: 8.0 cfs is the limit during a part of the year, 21.2 cfs is the limit the rest of the year. The stipulation changes the period during which the 8.0 cfs and 21.2 cfs limits apply. IDWR and the parties stipulate that these are the correct periods of year. The recommended periods of use reflect historic periods of use evident from the United States' records of water use of Len Lewis Spring.

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

FISH PROPAGATION
T08S R14E S06 SWNE, NWSE

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: De Minimis.

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.

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: United States through
Department of Justice
Address: 999 18th Street, Suite 945
City/State: Denver, CO 80202
Attorney of Record: Michael A. Gheleta

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

	
Attorney's Signature	Attorney's Signature
5/30/95	5/25/95
Date	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 May 30, 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:

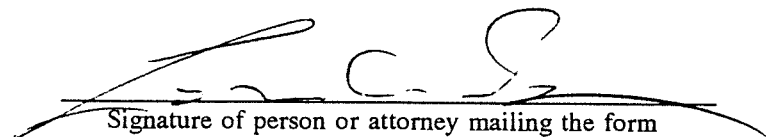
1. Original to:

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 83720
Boise, ID 83720-0098

U.S. Department of Justice
Environment and Natural
Resources Division
550 West Fort Street, Box 33
Boise, ID 83724-0663



Signature of person or attorney mailing the form

DANIEL L. STECKEL
NICHOLAS B. SPENCER
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. 36-15450
	)	
Case No. 39576	)	
	)	
	)	STIPULATION
	)	

DESCRIPTIVE SUMMARY

This is a stipulation to resolve the objection to water right number 36-15450.

STIPULATION

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

1. The Standard Form 5 for water right no. 36-15450, attached hereto and incorporated by reference herein, sets forth the description of the water right as agreed by IDWR and the claimant. 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 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.

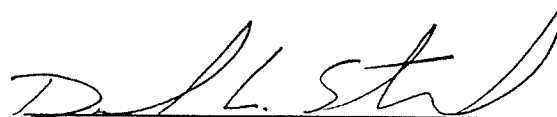
4. The Standard Form 5 and this stipulation were entered into and executed voluntarily by all parties in good faith, and without any fraud, misunderstanding, overreaching, misrepresentation, duress, or undue influence whatsoever.

Dated this 30th day of May, 1995.



Michael A. Gheleta
Attorney
General Litigation Section
Environment and Natural Resources Division
U.S. Department of Justice

Dated this 25th day of May, 1995



Daniel L. Steckel/Nicholas B. Spencer
Deputy Attorney General
Idaho Department of Water Resources



U.S. Department of Justice

Environment and Natural Resources Division

WMC:LCDyer
90-6-2-63C

Denver Field Office
General Litigation Section

Lorrin C. Dyer
U. S. Department of Justice
999 18th Street, Suite 945
Denver, Colorado 80202
Telephone: (303) 294-1913
Telefax: (303) 294-1931

May 30, 1995

via Federal Express

Diana R. Delaney, Chief Deputy Clerk
DISTRICT COURT
253 Third Ave., North
Twin Falls, Idaho 83301

Re: Snake River Basin Adjudication
Civil No. 39576
Subcase No.: 36-15450

Dear Ms. Delaney:

Enclosed for filing is an original and two copies of an executed **STANDARD FORM 5 - STIPULATED ELEMENTS OF A WATER RIGHT** and a **STIPULATION**.

Sincerely,

Lorrin C. Dyer
Secretary

/lcd
Enclosures

cc: Dan Steckel

RECEIVED
JUN 05 1995
OFFICE OF THE
ATTORNEY GENERAL