

3-6

**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: 34-10166   |
|                | ) |                        |
|                | ) |                        |
|                | ) | PROPOSED ELEMENTS OF A |
|                | ) | WATER RIGHT            |

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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**

A copy of this water right as recommended in the director's report shall be submitted with this form. A statement shall accompany **each** element of a water right.

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:

HERB WHITWORTH  
STAR ROUTE  
MACKAY ID 83251

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

2. The source of water is:

Source: BIG LOST RIVER                      Tributary: SINKS

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                      3.14 CFS  
TOTAL QUANTITY:    3.14 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 31.44 CFS. COMBINED RIGHT NOS.: 34-00755, 34-00757, 34-00758, 34-00766, 34-10164, 34-10167, 34-00363, 34-00364, 34-00760, 34-00764, 34-10166, 34-10165.

0.90 CFS OF 34-00363, 1.6 CFS OF 34-00760, 1.3 CFS OF 34-00764, 2.1 CFS OF 34-00364, 3.14 CFS OF 34-10166 IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THIS RIGHT AND THOSE LISTED ABOVE.

THIS RIGHT IS A COMBINATION OF OLD RIGHT NOS. 34-00763, 34-00765.

Required Statement: Diversion rate for this right, and total combined diversion rate for this right and the other listed rights, are reduced consistent with the stipulated place of use. In addition, the amount of this right that is limited to use for conveyance losses is reduced consistent with the reduction in diversion rate of this right and the total combined diversion rate.

4. The priority date is: 04/01/1912

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:

T09N R22E S32 SESWSE

WATER IS DELIVERED THROUGH LONGHURST CANAL.

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

6. The purpose of use is: IRRIGATION

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

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

IRRIGATION 05-01 to 10-15

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

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

T08N R22E S02 Lot 4 (NWNW) 31.0 acres, SWNW 40.0 acres, NESW 20.0 acres,  
NWSW 37.0 acres, SWSW 35.0 acres, SESW 3.0 acres

T08N R22E S03 Lot 1 (NENE) 39.0 acres, Lot 2 (NWNE) 40.0 acres, SWNE 30.0 acres,  
SENE 29.0 acres, Lot 3 (NENW) 24.0 acres, Lot 4 (NWNW) 37.0 acres,  
SENE 30.0 acres, NESE 32.0 acres, NWSE 35.0 acres, SESE 35.0 acres

T08N R22E S11 NWNW 38.0 acres

T09N R22E S33 NESE 24.0 acres, NWSE 2.0 acres, SWSE 3.0 acres, SESE 8.0 acres

T09N R22E S34 SWNW 23.0 acres, SENW 13.0 acres, NESW 32.0 acres,  
NWSW 40.0 acres, SWSW 19.0 acres, SESW 37.0 acres,  
SWSE 32.0 acres, SESE 18.0 acres

786.0 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 786 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-00755, 34-00757, 34-00758, 34-00766, 34-10164, 34-10167, 34-00363, 34-00364, 34-00760, 34-00764, 34-10166, 34-10165.

Required Statement: IDWR and the parties stipulate that this is the correct descriptions of the place of use. Where all or part of the place of use is identified by government lot no., the legal description is the government lot; quarter-quarter descriptions are also provided in

parentheses for the convenience of those who do not have ready access to U.S. government plat maps. The place of use is located in Custer County, Idaho.

9. The annual volume of consumptive use is:

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 1965 AF. COMBINED RIGHT NOS.: 34-00755, 34-00757, 34-00758, 34-00766, 34-10164, 34-10167, 34-00363, 34-00364, 34-00760, 34-00764, 34-10166, 34-10165.

Required Statement: Annual volume of consumptive use is reduced consistent with the stipulated place of use.

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.

**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: Susan E. Hamlin  
A. Lynne Krogh

Susan E. Hamlin 3-2-95  
Attorney's Signature Date

Name: Herb Whitworth  
Address: Star Route  
City/State/Zip: Mackay, ID 83251  
Attorney of Record:

Herb Whitworth 2/28/95  
Party's Signature Date

\_\_\_\_\_  
Attorney's Signature Date

Name: United States through  
Address: Dept. of Justice for BLM  
601 Pennsylvania Ave NW  
City/State: Washington, DC 20004  
Attorney of Record: R. Lee Leininger/  
Daria Zane

R. Lee Leininger 2/27/95  
Attorney's Signature Date

\_\_\_\_\_  
Court Representative (if necessary)

\_\_\_\_\_  
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 March 2nd, 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:

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

Herb Whitworth  
Star Route  
Mackay, ID 83251

  
\_\_\_\_\_  
Signature of person or attorney mailing the form

| RIGHT<br>NUMBER | NAME & ADDRESS | PRIORITY<br>DATE | PURPOSE OF USE | PERIOD OF USE<br>FROM TO | MAXIMUM<br>QUANTITY | BASIS OF CLAIM |
|-----------------|----------------|------------------|----------------|--------------------------|---------------------|----------------|
|-----------------|----------------|------------------|----------------|--------------------------|---------------------|----------------|

SOURCE: BIG LOST RIVER

34-10166 HERB WHITWORTH  
STAR ROUTE  
MACKAY ID 83251

04/01/1912 IRRIGATION 05-01 10-15 3.2 CFS DECREE

POINT OF DIVERSION:  
T09N R22E S32  
PLACE OF USE: IRRIGATION

TOTAL QUANTITY: 3.2 CFS

SESWSE

|               |       |             |       |             |                  |           |
|---------------|-------|-------------|-------|-------------|------------------|-----------|
| T08N R22E S02 | Lot 3 | (NENW) 1.0  | Lot 4 | (NWNW) 31.0 | SNW 40.0         | SENW 10.0 |
|               |       | NESE 20.0   |       | NWSW 37.0   | SWSW 35.0        | SESE 3.0  |
| S03           | Lot 1 | (NENE) 39.0 | Lot 2 | (NNEE) 40.0 | SNE 30.0         | SESE 29.0 |
|               | Lot 3 | (NENW) 24.0 | Lot 4 | (NWNW) 37.0 | SENW 30.0        | NESE 32.0 |
|               |       | NWSE 35.0   |       | SESE 35.0   |                  |           |
| S11           |       | NWNW 38.0   |       |             |                  |           |
| T09N R22E S33 |       | NESE 24.0   |       | NWSE 2.0    | SUSE 3.0         | SESE 8.0  |
| S34           |       | SNW 23.0    |       | SENW 13.0   | NESW 32.0        | NWSW 40.0 |
|               |       | SWSW 19.0   |       | SESW 37.0   | Lot 8 (NWSE) 4.0 | SWSE 32.0 |
|               |       | SESE 18.0   |       |             |                  |           |

801.0 ACRES TOTAL

REMARKS: WATER IS DELIVERED THROUGH LONGHURST CANAL.

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL  
COMBINED DIVERSION RATE OF 32.04 CFS, A TOTAL COMBINED ANNUAL  
CONSUMPTIVE USE VOLUME OF 2002.5 AF, AND TO THE IRRIGATION OF A  
COMBINED TOTAL OF 801 ACRES IN A SINGLE IRRIGATION SEASON.COMBINED RIGHT NOS.: 34-00755, 34-00757, 34-00758, 34-00766,  
34-10164, 34-10167, 34-00363, 34-00364, 34-00760, 34-00764,  
34-10166, 34-10165THIS RIGHT IS A COMBINATION OF OLD RIGHT NOS. 34-00763, 34-00765.  
0.90 CFS OF 34-00363, 1.6 CFS OF 34-00760, 1.3 CFS OF 34-00764,  
2.1 CFS OF 34-00364, 3.2 CFS OF 34-10166 IS LIMITED TO USE FOR  
CONVEYANCE LOSSES IN DELIVERY OF THIS RIGHT AND THOSE LISTED  
ABOVE.