

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: 34-12402
	)	
	)	
	)	PROPOSED ELEMENTS OF A
	)	WATER RIGHT

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:

STOCKWATER 0.12 CFS
TOTAL QUANTITY: 0.12 CFS

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

4. The priority date is: 03/16/1923

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 this instream flow is:
T08N R22E S04 NWNW

The ending point of this instream flow is:
T08N R22E S11 NESE

Required Statement: IDWR and the parties stipulate that this is the correct description of the beginning and ending points of this instream flow.

6. The purpose of use is: STOCKWATER

NON-IRRIGATION USES: STOCKWATER/UP TO 1000 CATTLE.

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

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

STOCKWATER 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 reservation is:

T08N R22E S02 NWSW, SESW

T08N R22E S03 SWNE, SENE, SWNW, SENW, NESW, NESE, NWSE

T08N R22E S04 SWNE, SENE, NENW, NWNW, SENW

T08N R22E S11 NWNE, NENW

Required Statement: IDWR and the parties stipulate that this is the correct description of the place of use. The place of use is located in Custer 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.

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 2/22/95
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 NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: BIG LOST RIVER						
TRIBUTARY: SINKS						
34-12402	HERB WHITWORTH STAR ROUTE MACKAY ID 83251	03/16/1923	STOCKWATER	01-01 12-31	.12	CFS BENEFICIAL USE
NON-IRRIGATION-USES:						
STOCKWATER/ UP TO 1000 CATTLE						
POINT OF DIVERSION:						
T08N R22E S05 NENE (B)						
S11 NESE (E)						
PLACE OF USE: STOCKWATER						
T08N R22E S02						
S03						
S04						
S05						
S11						
TOTAL QUANTITY: .12 CFS						
SENW SENW						
NWESE NWESE						
NWNW NWNW						
SESW						
SENE						
NWSW						
SENE						
NENE						
NENE						
SENE						