

1125

**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: 34-10674
	)	
	)	
	)	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:

WILEY F. SMITH
STAR ROUTE
MACKAY, ID 82351

Required Statement: IDWR and the parties stipulate that this is the correct name and address of the claimant.

2. The source of water is:

Source: UNNAMED STREAM Tributary: ARENTSON GULCH CREEK

Required Statement: IDWR and the parties stipulate that this is the correct source.

3. The quantity of water used in cubic feet per second or the quantity of water stored in acre-feet per year is:

STOCKWATER	0.06	CFS
TOTAL QUANTITY:	0.06	CFS

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

4. The priority date is: 07/05/1928

Required Statement: IDWR and the parties stipulate that this is the correct priority date.

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:

T11N R21E S36 NESE

RIGHT NO. 34-04005 IS ALSO DIVERTED THROUGH THE POINT OF DIVERSION DESCRIBED ABOVE.

Required Statement: The legal description is as recommended in the director's report. The remark is a standard remark used by IDWR to note other water rights also diverted from the same point of diversion. The claim is not for an instream flow.

6. The purpose of use is: STOCKWATER

NON-IRRIGATION USES: STOCKWATER, 300 HEAD

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

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

STOCKWATER 09-15 to 06-10

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

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

PLACE OF USE: STOCKWATER

T10N R21E S02	SWSW	SESW	
T10N R21E S10	NENE	NWNE	SWNE
T10N R21E S11	NENW		

Required Statement: As recommended in the director's report. The place of use is owned by Ben Howard, and water is applied to the place of use pursuant to a lease agreement. 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.

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:

Address:

City/State/Zip:

Attorney of Record:

Name: Idaho Dept. of Water Resources

Address: P.O. Box 83720

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

Attorney of Record: Matt J. Howard/
A. Lynne Krogh

Ben Howard

Party's Signature

Nov 2, 95

Date

Matt J. Howard

Attorney's Signature

11/13/95

Date

Wiley F. Smith

Party's Signature

Nov 9, 95

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 ^{November 13} ~~December 13~~ 199 ⁵ ~~4~~, 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:

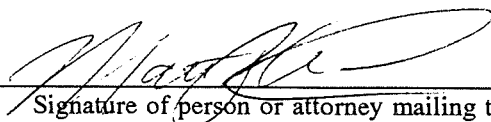
1. Original to:

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

