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OFFICE OF THE
ATTORNEY GENERAL

SUBCASE NO: 36-04219

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.

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:

U.S. Department of the Interior
Bureau of Land Management
Idaho State Office
3380 Americana Terrace
Boise, Idaho 83706

Required Statement: The parties have agreed that the water right should be in the name of the United States.

2. The source of water is: Unnamed stream

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:

4.0 afy

Required Statement: AS RECOMMENDED IN THE DIRECTOR'S REPORT

4. The priority date is: June 30, 1965

Required Statement: AS RECOMMENDED IN THE DIRECTOR'S REPORT

5. The legal description of 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:

T.1S, R.27E, Section 24, NWNENE

Required Statement: The description of the point of diversion as originally recommended was erroneous. This reflects the correct legal description of the point of diversion.

6. The purpose of use is:

Stockwater Storage, Stockwater, 1100 Range Cattle, Wildlife

Required Statement: The provision "Variable Amounts" is not necessary for this right.

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

January 1 through December 31

Required Statement: AS RECOMMENDED IN THE DIRECTOR'S REPORT

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

T.1S, R.27E, Section 24, NENE
T.1N, R.27E, Section 25, NESW
T.1N, R.27E, Section 28, SWSE
T.1S, R.27E, Section 2, SESE
T.1S, R.28E, Section 8, NWSW
T.1S, R.28E, Section 28, NWSE
T.1S, R.28E, Section 32, NWNW

Required Statement: The description of the places of use as originally recommended was erroneous. This reflects the correct legal description of the places of use.

9. The annual volume of consumptive use is:

4.0 afy

Required Statement: AS RECOMMENDED IN THE DIRECTOR'S REPORT

10. Other matters necessary to define this water right

None

Required Statement: The remark as originally recommended is not necessary to define or administer the right.

Signature and Address 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: Smith Ranches, Inc.
Address: PO Box 106
City/State: Darlington, ID
Zip: 83231
Attorney of Record:
M.B. "Buck" Hiller

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

Harold Smith 8/9/96
Party's Signature Date

Attorney's Signature Date

2. R. 15.96
Attorney's Signature Date

STIPULATION

This is an agreement between Smith Ranches, Inc. and the United States with regard to the water right claimed in the Snake River Basin Adjudication by Smith Ranches, Inc., Claim No. 36 - 04219, to which the United States, on behalf of the Bureau of Land Management, objected.

To resolve the dispute over the above-referenced water right, the claimant, Smith Ranches, Inc., and the objector, the United States, stipulate and agree as follows:

1. Water right no. 36-04219 shall be decreed in the name of the United States Department of Interior Bureau of Land Management. That water right is accurately described in the Standard Form No. 5 submitted herewith.

2. This water right consists of Pratt Lake Reservoir which is utilized to transport water. It is acknowledged that Smith Ranches, Inc., developed Pratt Lake Reservoir in 1965. In 1981, the BLM provided materials for troughs, which Smith Ranches, Inc. then installed. Smith Ranches installed four troughs in 1981. An additional trough was installed by Smith Ranches in 1984.

3. The water right described includes a point of diversion and places of use which are on lands owned by the United States. Smith Ranches, Inc. does not have any vested interest in these federal lands where the point of diversion and places of use are located.

4. The United States agrees that, except for name and address, Smith Ranches, Inc., one of the current grazing permit holders, may continue to use the water as described in water

right no. 36-04219. This water is to be used on the allotment currently numbered 11045 and known as the Smith Allotment.

Regardless of the grazing permit holder, the water is to be used in the same manner that it has been used for the last thirty years, which is for livestock and wildlife.

5. The United States shall not be required to pay any compensation in connection with the decree of this water right. Smith Ranches, Inc. shall not seek any compensation in connection with the change of title of this water right or assert any claim against the United States or its agents in connection with the change of title of this water right.

6. . Water right no. 36-04219, located in a BLM grazing allotment, was, from the time of construction, intended to be a livestock water source, which includes wildlife water, and may be used from time to time by the BLM as an incidental emergency source of water for fighting wildfires in the area. Smith Ranches, Inc. agrees to these uses of water.

7. The purpose of use of this water is stockwatering. Although wildlife is recognized as a use of this water right, there is no separate, independent wildlife claim. Rather, as set forth in Idaho law, Idaho Code 42-115, claims for water rights for stockwater include wildlife within the definition of stockwater. This recognizes merely that wildlife also drink from these sources just as stockwater do. However, there is no independent amount allotted to the wildlife for consumption.

8. Both parties shall be released and held harmless from any loss, injury, or damage from the use of the herein described water right.

9. Because there are no remaining objections to this water right, a partial decree may be entered for it pursuant to Idaho code 42-1412(8).

10. Upon entry of partial and final decrees for water right no. 36-04219 describing the water right as shown in Exhibit 1 with agreed changes, the objection of the United States shall be deemed withdrawn.

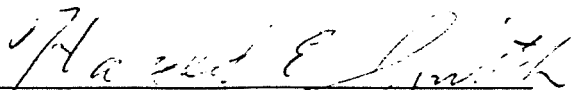
11. All parties agree to bear their own costs and attorneys' fees in connection with this matter.

12. This stipulation is entered into and executed voluntarily by all parties in good faith, and without any fraud, misunderstanding, overreaching, misrepresentation, duress or undue influence whatsoever.

13. This stipulation and release contains the entire agreement between the parties and no promise, inducement, or representation other than herein set forth has been made, offered

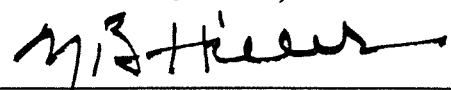
and agreed upon, and the terms of this stipulation and dismissal are contractual and not merely a recital.

It is so agreed.



Harold Smith
Smith Ranches, Inc.
P.O. Box 106
Darlington, Idaho 83231

Dated: 12/22/95



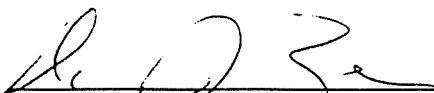
M.B. "Buck" Hiller, Esquire
P.O. Box 52020
Idaho Falls, Idaho 83405

Attorney for Smith Ranches, Inc.

Dated: _____

LeRoy Cook, Area Manager
Bureau of Land Management
940 Lincoln Road
Idaho Falls, Idaho 83401

Dated: _____



Daria J. Zane, Esquire
Dept. of Justice, ENRD
Washington, D.C. 20044-0663

Attorney for Bureau of Land
Management

Dated: 12/6/95

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 Jan 15, 1996, 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

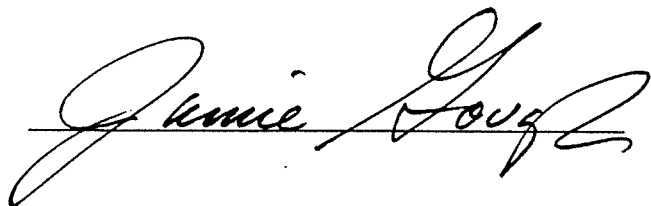
2. Copies to:

Department of Justice
C/O Boise Adjudication Team
380 Park Center Blvd. - Suite 330
Boise, Idaho 83706

Smith Ranches, Inc.
PO Box 106
Darlington, ID 83231

M.B. Hiller
Hiller, Benjamin & Associates
Suite 2A, 525 Park Avenue
PO Box 52020
Idaho Falls, Idaho 83405-2020

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

A handwritten signature in black ink, appearing to read "Jamie Rouse", is written over a horizontal line.