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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	)	Subcase No. 34-12487
	)	
	)	IDWR REPORT RE: REVIEW
Case No. 39576	)	OF STANDARD FORM 5
	)	
	)	

DESCRIPTIVE SUMMARY

IDWR submits this report to inform the Court and the parties that IDWR has reviewed the Standard Form 5 submitted by the parties in this subcase and that the Director has chosen not to sign the Standard Form 5.

DISCUSSION

The Director did not sign the Standard Form 5 for the reasons set forth below.

1. The description of the elements of the water right in the Standard Form 5 are not correct as stated below:

☐ Name and Address

☐ Source

☐ Quantity

☒ Priority Date

The Standard Form 5 states that the water right is correctly described in the director's report. However, IDWR's response to the objection notes that there is an error in the description of the priority date of this water right in the director's report.

As noted in IDWR's response, rights to the use of surface water from the Big Lost River and tributaries were adjudicated in Utah Construction Co. v. Abbott, Equity No. 222 (D.E.Id 1923). The source of water for this right is tributary to the Big Lost River, and the United States was a party to that case. The United States is therefore precluded by the doctrine of res judicata from asserting a beneficial use priority date the same as or earlier than the date of the decree, March 15, 1923.

☐ Point of Diversion

☒ Purpose of Use

The Standard Form 5 omits the type and number of head of stock. Further description of stockwater uses by the type and number of head is provided pursuant to Idaho Code §42-1411(2)(f), which provides for IDWR to determine the purpose(s) of use of a water right to the extent the director deems appropriate to

define and administer the water right, and 42-1411(2)(j), which further provides for IDWR to include such other matters as the director deems appropriate to define and administer the water right. The further description of non-irrigation uses defines the water right by describing the purpose of use with sufficient specificity to prevent future expansions in use that would enlarge the water right and cause injury to other water rights.

The omission of the further description of non-irrigation uses from Standard Form 5s for water rights acquired under state law by the United States for stockwater purposes is currently the subject of further proceedings in subcase no. 34-04179.

☐ Period of Use

☐ Place of Use

☐ Consumptive Use

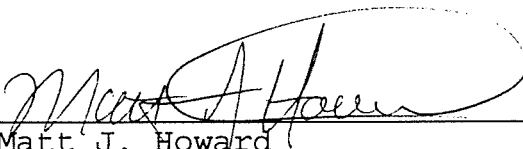
☐ Other Matters Necessary to Define or Administer the Right

2. The Standard Form 5 was not signed by the Director for other reasons as stated below:

☐ Federal Reserved Water Right

☐ Other

DATED this 18 day of January, 1996.


Matt J. Howard
Deputy Attorney General
Idaho Department of Water Resources

CERTIFICATE OF MAILING

I certify that on January 23, 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:

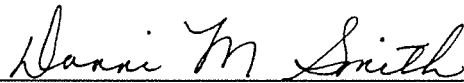
1. Original to:

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:

William M. Ferry
U.S. Department of Justice
Env't. & Nat. Resources Div.
550 W. Fort St., MSC 033
Boise, ID 83724-0663

Jimmie K. & Elsie L. Waddoups
HC 60, Box 230
Moore, ID 83255



Signature of person mailing form