

RECEIVED

APR 24 1996

Department of Water Resources
Adjudication Bureau

RECEIVED

4-23-96
JUDICIAL

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: 36-15347
	)	
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

THIS FORM MAY ONLY BE USED IF ALL PARTIES HAVE STIPULATED TO ALL ELEMENTS OF A WATER RIGHT AND MAY BE SUBMITTED AT ANY TIME FOLLOWING THE CLOSE OF THE STATUTORY RESPONSE PERIOD.

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 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:

LAND VIEW FERTILIZER INC
PO BOX 86
MINIDOKA ID 83343

Required Statement: Land View Fertilizer, Inc. is the current owner of this water right as shown by the Standard Form 3 previously filed with the court by the current owner.

2. The source of water is: GROUNDWATER

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

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

COMMERCIAL	0.08	CFS
	11.3	AFY
TOTAL QUANTITY:	0.08	CFS
	11.3	AFY

USE OF THIS RIGHT WITH RIGHT NO. 36-11584 IS LIMITED TO A
TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 18.6 AF

Required Statement: IDWR and the parties stipulate that these are the correct quantities of water.

4. The priority date is: 01/01/1961

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:

T08S R25E S02 NESESW

RIGHT NO. 36-11584 IS ALSO DIVERTED THROUGH POINT OF DIVERSION
DESCRIBED ABOVE.

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

6. The purpose of use is: COMMERCIAL

FERTILIZER PLANT WITH OFFICE

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

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

COMMERCIAL 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:

T08S R25E S02 SESW

Required Statement: As recommended in the director's report. The place of use is located in Minidoka County, Idaho.

9. The annual volume of consumptive use is: De Minimis.

USE OF THIS RIGHT WITH RIGHT NO. 36-11584 IS LIMITED TO A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 7.2 AF

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

10. Other matters necessary to define this water right.

These matters are necessary because: Not applicable.

These matters do not fall within the 9 elements listed above because: Not applicable.

The stipulation of the parties is attached hereto and incorporated herein by reference.

Signatures and Addresses 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: Land View Fertilizer, Inc.

Address: P.O. Box 86

City/State/Zip: Minidoka, ID 83343

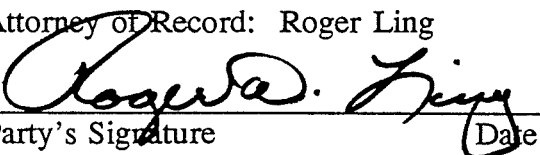
Attorney of Record: Roger Ling

Name: Idaho Dept. of Water Resources

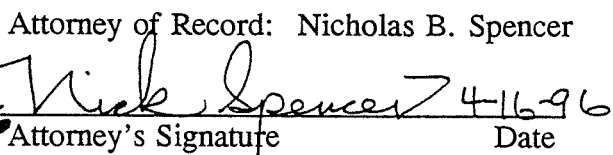
Address: P.O. Box 83720

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

Attorney of Record: Nicholas B. Spencer


Party's Signature

Date


Attorney's Signature

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 April 19, 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:

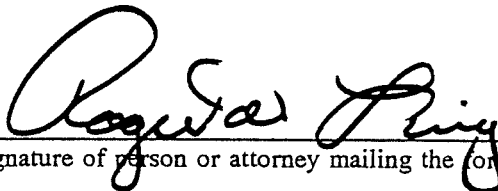
1. Original to:

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:

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

Roger D. Ling, Esq.
LING, NIELSEN & ROBINSON
615 H. Street
Rupert, ID 83350



Signature of person or attorney mailing the form

NICHOLAS B. SPENCER
Deputy Attorney General
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
Telephone: (208) 327-7900
Fax: (208) 327-5400

Attorney for IDWR

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	)	Sub-case No. 36-15347
	)	
Case No. 39576	)	
	)	
	)	STIPULATION
_____	)	

DESCRIPTIVE SUMMARY

This is a stipulation to amend the description of water right number 36-15347, to bring it into conformance with the amended description of water right number 36-11584.

STIPULATION

To resolve the dispute over water right number 36-11584, the Idaho Department of Water Resources (IDWR) and Land View Fertilizer, Inc. (the objector/claimant), stipulate and agree that:

1. The Standard Form 5 for water right no. 36-15347, attached hereto and incorporated by reference herein, sets forth the description of the water right as agreed by

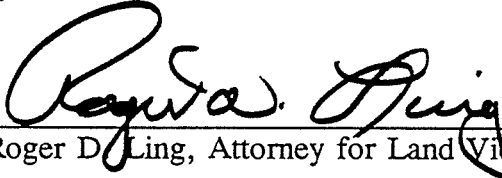
the parties and IDWR. All decrees, whether partial or final, should describe the water right as shown in the Standard Form 5.

2. The Standard Form 5 and this stipulation have been reached through good faith negotiations for the purpose of resolving legal disputes, including pending litigation, and all parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest or be used in any legal proceeding, and that this agreement is not and shall not be used as precedent for resolution, either through settlement or litigation, of any other claim to a water right.

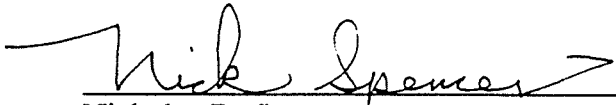
3. All parties agree to bear their own costs and attorney's fees in connection with this matter.

4. The Standard Form 5 and this stipulation were entered into and executed voluntarily by all parties in good faith, and without any fraud, misunderstanding, overreaching, misrepresentation, duress, or undue influence whatsoever.

Dated this 19th day of April, 1996.


Roger D. Ling, Attorney for Land View Fertilizer, Inc.

Dated this 16th day of APRIL, 1996


Nicholas B. Spencer
Deputy Attorney General
Idaho Department of Water Resources