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ATTORNEY GENERAL

**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	)	AMENDED STANDARD FORM 5
	)	
Case No. 39576	)	SUBCASE NO: 36-04219
	)	
	)	
	)	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 are:

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 be in the name of the United States.

2. The **source** of water is:

Pratt Lake, Tributary to Sinks

Source is also known as Pratt Lake Reservoir

Required Statement: IDWR and the parties agree that the source of water for this claim is the source identified on the USGS quadrangle map for this area as Pratt Lake. The source is commonly known, however, as Pratt Lake Reservoir. For consistency, the USGS source name should be used. For clarity, the common name should also be included.

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:

4.0 AFY

Required Statement: AS RECOMMEND 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 the **point(s) of diversion**; 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. IDWR and the parties agree that the above description reflects the correct legal description of the point of diversion.

6. The **purpose of use** is:

Stockwater Storage	4 AFY
Stockwater From Storage	4 AFY
Wildlife Storage	4 AFY
Wildlife from Storage	<u>4 AFY</u>
(total quantity)	4 AFY

Non-irrigation use: Stockwater, 1100 Range Cattle;
Wildlife, Variable Amount.

This right and other rights common to the same grazing allotment shall be limited to the quantity of water beneficially used by the number of stock within the allotment.

Required Statement: The description of the purpose of use as originally recommended was erroneous. IDWR and the parties agree that the purpose of use should be decreed as set out above and should include wildlife use. Each purpose of use is for 4.0 AFY for a total quantity of 4.0 AFY (see element no. 3). The last statement is necessary to limit the use of this water right in combination with any other water rights claimed and recommended for the same use. Since each right is quantified based on the total use within the allotment, the combined use must also be limited to that same total, thereby avoiding the misconception that the rights are additive.

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

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.1N, R.27E, Section 25, NESW
T.1N, R.27E, Section 28, SWSE
T.1S, R.27E, Section 2, SESE
T.1S, R.27E, Section 24, NENE
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. IDWR and the parties agree that the above description reflects the correct legal description of the places of use.

9. The annual volume of consumptive use is:

N/A

Required Statement: Senate Bill No. 1480 recently passed by the Idaho legislature and signed by the Governor amends I.C. 42-1401A(2) and eliminates the requirement to decree a consumptive use for all uses of water except irrigation. However, to the extent the Court requires a consumptive use then it should be decreed as "de minimis"

10. Other matters necessary to define this water right:

None

These matters are necessary because: N/A

These matters do not fall within the 9 elements listed above because: N/A

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: Smith Ranches

Address: P.O. Box 106

City/State/Zip: Darlington, ID 83231

Attorney of Record: M.B. "Buck" Hiller

Harold E. Smith 5/2/96
Party's Signature Date

Attorney's Signature

Date

Name: United States through Department of Justice

Address: 601 Pennsylvania Ave. NW

City/State: Washington, DC 20004

Attorney of Record: Daria J. Zane

D. J. Zane 5/13/96
Attorney's Signature Date

Name: Idaho Dept. of Water Resources

Address: P.O. Box 83720

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

Attorney of Record: Charles L. Honsinger

Charles L. Honsinger 04/30/96
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 May 13, 1998, 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:

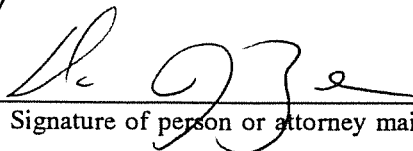
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

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

*Smith Ranches
PO Box 106
Dorland, ID 83231*



Signature of person or attorney mailing the form