

ALAN G. LANCE
Attorney General
State of Idaho

CLIVE J. STRONG
Chief, Natural Resources Division

A. LYNNE KROGH
BRENT KING
Deputy Attorneys General
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098
Telephone: (208) 327-7900
FAX: (208) 327-7866

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	)	Subcase No. 36-00046
	)	
	)	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.

[X] Source

The source of water for water right no. 36-00046 should be described as:

THREE SPRINGS TRIBUTARY TO: BILLINGSLEY CREEK.

The director's report includes the body of water to which the source of the right is tributary for each water right in the director's report, except for rights to ground water. IDWR adopted this standard for the description of the source of water rights because there are so many instances, sometimes in the same administrative basin, where different surface water sources bear the same name.

[X] Quantity

The description of the quantity of water used should include the following language:

USE OF THIS RIGHT IN COMBINATION WITH RIGHT NOS. 36-11060 AND 36-15462 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.5 CFS FROM 04/01 THROUGH 09/30, AND 4.0 CFS FROM 10/1 THROUGH 3/31.

The claimant has three water rights, this right no. 36-00046, right no. 36-11060, and right no. 36-15462. Pursuant to these three rights, the claimant may divert a total of either 3.5 cfs or 4.0 cfs depending on the time of year. This water is used for irrigation purposes pursuant to this right 36-00046, for fish propagation purposes pursuant to 36-15462, and for a recreational pond pursuant to 36-11060. The claimant and the objector have submitted an SF5 for each of these rights, each with a diversion rate of 3.5 cfs or 4.0 cfs, depending on the time of year. Absent the additional language set forth above, the description of the water rights could create the erroneous impression that the total diversion rate under the three

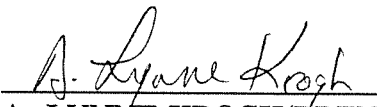
rights is 10.5 cfs or 12.0 cfs depending on the time of year.

[X] Place of Use

The description of the place of use should be as follows:

T07S R13E S24	NENE (40.0 acres), NWNE (36.0 acres), SWNE (36.0 acres) SENE (31.0 acres), NESE (20.0 acres), NWSE (38.0 acres) SWSE (39.0 acres), SESE (30.0 acres)
T07S R13E S19	Lot 1 (NWNW) (15.0 acres), Lot 2 (SWNW) (6.0 acres) SWSW (12 acres)
303.0 ACRES TOTAL	

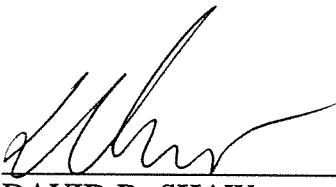
The description of the place of use in the SF5 omits the number of irrigated acres per 40-acre tract, which is necessary to describe the place of use for this water right for irrigation purposes pursuant to Idaho Code §42-1411(2)(h). The number of acres listed above is the same as recommended in the director's report. In addition, the place of use of the tracts in Section 19 should be described by government lot number, with the quarter-quarter description in parentheses, the same as in the director's report. IDWR uses the government lot number to describe the place of use because this is the legal description under the public land survey system as shown on U.S. plat maps. The public land survey system uses government lots to identify irregularly shaped tracts within a section. Quarter-quarter descriptions are also provided in parentheses for the convenience of those who do not have ready access to U.S. government plat maps. Quarter-quarter descriptions alone are not used in these circumstances, in part because they do not conform to the standards for legal descriptions of land under the public land survey system, and in part because the quarter-quarter description can in many instances be ambiguous due to the irregularities in the size or shape of tracts within a section.


A. LYNNE KROGH/BRENT KING
Deputy Attorneys General
Idaho Department of Water Resources

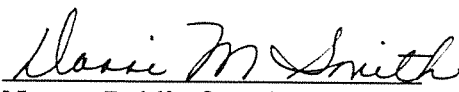
State of Idaho)
) ss.
County of Ada)

David B. Shaw, being first duly sworn, upon oath, deposes and says:

That I am the Adjudication Bureau Chief for IDWR, that I have read the foregoing report, know its contents, and that the statements contained therein are true to the best of my knowledge and belief.


DAVID B. SHAW

Subscribed and sworn to before me this 21st day of May, 1996.


Notary Public for Idaho
Residing at: BOISE ID
My commission expires: 12/5/2000

CERTIFICATE OF MAILING

I certify that on May 21, 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:

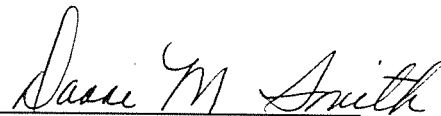
1. Original to:

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:

Gary D. Slette
P.O. Box 1906
Twin Falls, Idaho 83303-1906

Patrick D. Brown
P.O. Box 389
Twin Falls, Idaho 83303-0389



Signature of person or attorney mailing the form