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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. 34-04189
	)	
	)	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
- ☐ Point of Diversion
- ☒ Purpose of Use

The Standard Form 5 seeks to change the description of the purpose of use from "STOCKWATER" to "STOCKWATER" and "WILDLIFE." This water right is based on an instream stockwater appropriation. Wildlife use cannot be included as a purpose of use for an instream stockwater water appropriation. Physical diversion is required for an appropriation unless an exception is established by statute. Idaho Code §§42-113 and 42-114 establish an exception to the diversion requirement for watering of domestic livestock, but no exception is provided for appropriations for wildlife purposes.

IDWR, however, recognizes that: 1) wildlife preservation is an appropriate use of public lands, and 2) to the extent the United States has a right to water for instream stockwatering purposes, wildlife might also drink from the source. On this basis, IDWR included in its recommendation a further description of non-irrigation uses that states: "STOCKWATER, 310 RANGE CATTLE; WILDLIFE, VARIABLE AMOUNT." This language recognizes wildlife use as incidental to stockwater use but does not

recognize wildlife as a purpose of use of the water right independent from stockwater use.

☐ 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 21 day of May, 1996.



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

CERTIFICATE OF MAILING

I certify that on May 22, 1996, I served a true and correct copy of this document, including all attachments, by placing a true and correct copy thereof by the method indicated below, 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

☒ U.S. Mail
☐ Overnight Mail
☐ Facsimile
☐ Hand Delivered

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

☒ U.S. Mail
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Quinn E. Brown
Signature of person mailing form