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Department of Water Resources

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Department of Water Resources

**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: 34-10028
	)	(ONE NUMBER ONLY)
	)	
	)	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 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: EVERETT ACOR JR
RT 1 BOX 13
MOORE ID 83255

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

2. The source of water is:

Source: GROUNDWATER

Tributary:

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

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

IRRIGATION	4.36 CFS
TOTAL QUANTITY:	4.36 CFS

USE OF THIS RIGHT WITH RIGHT NO. 34-10896 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 4.36 CFS AND A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 836.5 AF.

Required Statement: IDWR and the parties stipulate that this is the correct description of the quantity of water.

4. The priority date is: 04/01/1961

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:

T03N R26E S02 (SWNWSW)

Required Statement: IDWR and the parties stipulate that this is the correct description of the point of diversion.

6. The purpose of use is: IRRIGATION

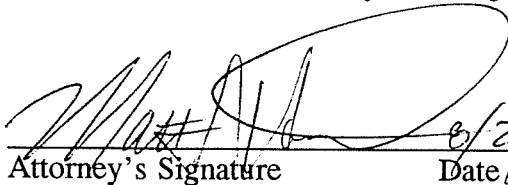
Required Statement: As recommended in the director's report.

Signature and Address of IDWR and the 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.

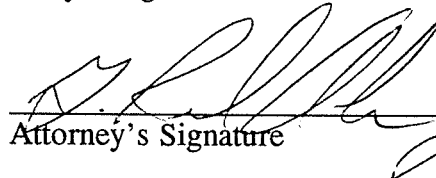
The stipulation of IDWR and the parties is attached hereto and incorporated herein by reference.

Name: Idaho Dept. of Water Resources
Address: P.O. Box 83720
City/State/Zip: Boise, ID 83720-0098
Attorney of Record: Matt Howard
A. Lynne Krogh

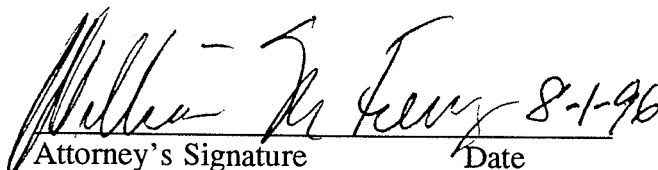

Attorney's Signature Date 8/2/96

Name: Everett Acor Jr.
Address: Rt 1 Box 13
City/State/Zip: Moore ID 83255
Attorney of Record: G. Rich Andrus

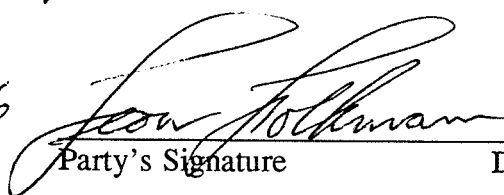

Party's Signature Date 7/17/96


Attorney's Signature Date July 17, 1996

Name: United States through
Address: Dept. of Justice for BLM
550 W Fort St MSC 033
City/State/Zip: Boise, ID 83724
Attorney of Record: R. Lee Leininger/
Daria Zane/William M. Ferry


Attorney's Signature Date 8-1-96

Name: Leon & Marlene Folkman
Address: PO Box 823
Arco, ID 83213


Party's Signature Date 7/24/96


Party's Signature Date 7/22/96

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 August 5, 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

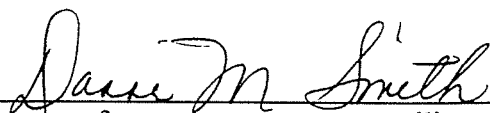
2. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

US Dept. of Justice
Envt. & Natural Resources Div.
550 W. Fort St, Box 33
Boise ID 83724

G. Rich Andrus
PO Box 250
Rexburg, ID 83440

Leon & Marlene Folkman
PO Box 823
Arco, ID 83213



Signature of person or attorney mailing the form

MATT HOWARD
A. LYNNE KROGH
Deputy Attorneys General
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
Telephone: (208) 327-7900
Fax: (208) 327-5400

Attorneys 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. 34-10028
	)	
Case No. 39576	)	
	)	
	)	STIPULATION
_____	)	

DESCRIPTIVE SUMMARY

This is a stipulation to resolve the objection to water right number 34-10028.

STIPULATION

To resolve the dispute over the above-captioned water right, the Idaho Department of Water Resources (IDWR), Leon & Marlene Folkman (objectors), U.S. Department of Justice (objector), and Everett Acor, Jr. (the claimant), stipulate and agree that:

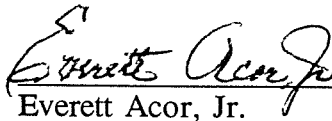
1. The Standard Form 5 for water right no. 34-10028, attached hereto and incorporated by reference herein, sets forth the description of the water right as agreed by IDWR and the parties. All decrees, whether partial or final, should describe the water right as shown in the standard form 5.

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.

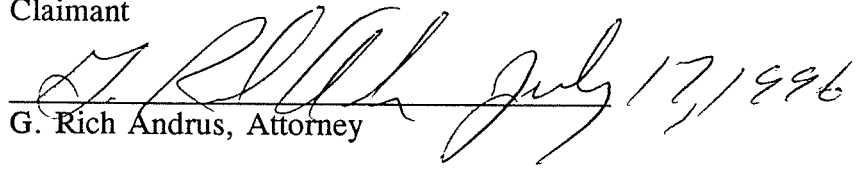
4. The Standard Form 5 and this stipulation were entered into and executed voluntarily by all parties in good faith, and without any fraud, misunderstanding, overreaching, misrepresentation, duress, or undue influence whatsoever.

Dated this 17th day of July, 1996.



Everett Acor, Jr.

Claimant



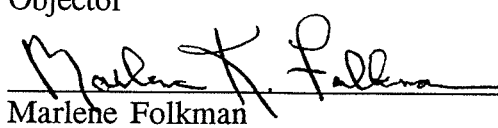
G. Rich Andrus, Attorney

Dated this 22 day of JULY, 1996.



Leon Folkman

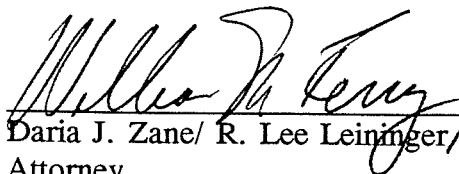
Objector



Marlene Folkman

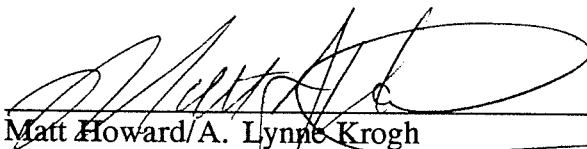
Objector

Dated this 1st day of August, 1996.



Daria J. Zane/ R. Lee Leininger/ William M. FERRY
Attorney
General Litigation Section
Environment and Natural Resources Division
U.S. Department of Justice

Dated this 2 day of August, 1996.



Matt Howard/ A. Lynne Krogh
Deputy Attorney General
Idaho Department of Water Resources