

AMENDED REPORT RE: REVIEW OF STANDARD FORM 5

Subcase No. 36-00046

In Re SRBA
Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
Karl J. Dreher, Director

August 6, 1996

DESCRIPTIVE SUMMARY

IDWR submits this amended 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:

THIS RIGHT IS LIMITED TO A DIVERSION RATE OF 3.5 CFS FROM 04-01 TO 09-30 AND TO A DIVERSION RATE OF 4.0 CFS FOR THE REMAINDER OF THE IRRIGATION SEASON.

USE OF THIS RIGHT WITH RIGHT NOS. 36-11060 AND 36-15462 IS LIMITED TO A COMBINED DIVERSION RATE OF 3.5 CFS FROM 04-01 TO 09-30 AND TO A COMBINED DIVERSION RATE OF 4.0 CFS FROM 10-01 TO 03-31.

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), NENE (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

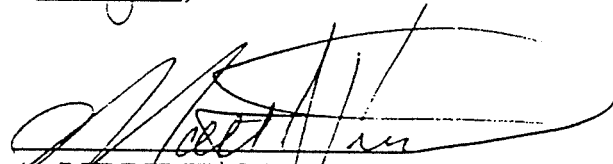
the public land survey system as shown on U.S. plat maps. The public land survey system uses government lots to identify irregularly shaped tracts within a section. Quarter-quarter descriptions are also provided in parentheses for the convenience of those who do not have ready access to U.S. government 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.

☒ Consumptive Use

The SF5 incorrectly identifies consumptive use as "N/A." The consumptive use element for this right should be reflected as follows:

USE OF THIS RIGHT WITH RIGHT NO. 36-11060 IS LIMITED TO A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 1076.5 AF.

Respectfully submitted this 6 day of August, 1996.


A. LYNNE KROGH/MATT J. HOWARD
Deputy Attorneys General
Idaho Department of Water Resources

CERTIFICATE OF MAILING

I certify that on August _____, 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

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

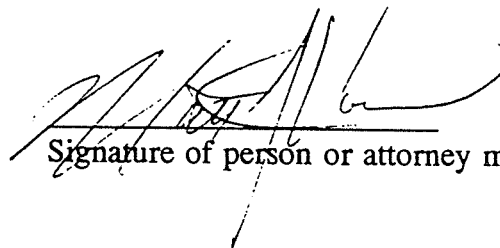
2. Copies to:

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

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

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

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



Signature of person or attorney mailing the form

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: AUG-05-1996
PAGE: A-1

RIGHTS FROM: SOURCE: THREE SPRINGS TRIBUTARY: BILLINGSLEY CREEK

RIGHT NUMBER: 36-00046

NAME AND ADDRESS: BILLINGSLEY CREEK RANCH
2726 S 1050 E
HAGERMAN ID 83332

SOURCE: THREE SPRINGS TRIBUTARY: BILLINGSLEY CREEK - add per Rev. Legat

QUANTITY: 4.00 CFS
3.17 CFS

THIS RIGHT IS LIMITED TO A DIVERSION RATE OF 3.50 CFS FROM 04-01 TO 09-30 AND TO A DIVERSION RATE OF 4.00 CFS FOR THE REMAINDER OF THE IRRIGATION SEASON.

USE OF THIS RIGHT WITH RIGHT NOS. 36-11060 AND 36-15462 IS LIMITED TO A COMBINED DIVERSION RATE OF 3.50 CFS FROM 04-01 TO 09-30 AND TO A COMBINED DIVERSION RATE OF 4.00 CFS FROM 10-01 TO 03-31.

Add per Amended Rpt

PRIORITY DATE: 02/17/1896

POINT OF DIVERSION: T07S R14E S30 SESENW Within GOODING County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION		<u>Irrigation Season</u>	<u>4.00 CFS</u>
		<u>03/13 11/13</u>	<u>3.17 CFS</u>

PLACE OF USE:	IRRIGATION	Within GOODING County		
T07S R13E S24		NENE 40.0	NWNE 36.0	SWNE 36.0
		NESE 20.0	NWSE 38.0	SWSE 39.0
R14E S19	Lot 1 (NWNW)15.0	Lot 2 (SWNW) 6.0		SWSW 12.0
	303.0 ACRES TOTAL			

CONSUMPTIVE USE: 999.0 AFY

USE OF THIS RIGHT WITH RIGHT NO. 36-11060 IS LIMITED TO A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 1076.5 AF.

Add per Amended Rpt

OTHER MATTERS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

USE OF THIS RIGHT IS COMBINED WITH WATER FROM BIG SPRINGS WATER USERS ASSOCIATION.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE
USE OF THIS RIGHT IS COMBINED WITH WATER FROM BIG SPRINGS WATER USERS ASSOCIATION.

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: AUG-02-1996
PAGE: A-1-----
RIGHTS FROM: SOURCE: THREE SPRINGS TRIBUTARY: BILLINGSLEY CREEK

RIGHT NUMBER: 36-00046

NAME AND ADDRESS: BILLINGSLEY CREEK RANCH
2726 S 1050 E
HAGERMAN ID 83332SOURCE: THREE SPRINGS TRIBUTARY: BILLINGSLEY CREEK - Add per Rev. ReptQUANTITY: 4.00 CFS
3/7 0FS

THIS RIGHT IS LIMITED TO A DIVERSION RATE OF 3.50 CFS FROM 04-01 TO 09-30 AND TO A DIVERSION RATE OF 4.00 CFS FOR THE REMAINDER OF THE IRRIGATION SEASON.

USE OF THIS RIGHT WITH RIGHT NOS. 36-11060 AND 36-15462 IS LIMITED TO A COMBINED DIVERSION RATE OF 3.50 CFS FROM 04-01 TO 09-30 AND TO A COMBINED DIVERSION RATE OF 4.00 CFS FROM 10-01 TO 03-31.

Add - but do Amended review report.

PRIORITY DATE: 02/17/1896

POINT OF DIVERSION: T07S R14E S30 SESENW Within GOODING County

PURPOSE AND

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	<u>Irrigation Season</u>	<u>4.00 CFS</u>
	<u>03/18 11/18</u>	<u>3/7 0FS</u>

PLACE OF USE: IRRIGATION Within GOODING County

T07S R13E S24	NENE 40.0	NWNE 36.0	SWNE 36.0	SENE 31.0
	NESE 20.0	NWSE 38.0	SWSE 39.0	SESE 30.0
R14E S19	Lot 1 (NWNW) 15.0	Lot 2 (SWNW) 6.0	SWSW 12.0	
303.0 ACRES TOTAL				

CONSUMPTIVE USE: 909.0 AFY

OTHER MATTERS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

USE OF THIS RIGHT IS COMBINED WITH WATER FROM BIG SPRINGS WATER USERS ASSOCIATION.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

USE OF THIS RIGHT IS COMBINED WITH WATER FROM BIG SPRINGS WATER USERS ASSOCIATION.