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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
	)	AMENDED MAY 14, 1996
	)	
Case No. 39576	)	SUBCASE NO: <u>34-04164</u>
	)	
	)	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 stipulated elements of one water right acquired under state law and/or one 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; that 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

A copy of this water right as recommended in the director's report shall be submitted with this form. A statement shall accompany each element of a water right.

Elements where there has been no objection should be listed exactly as they appear in the director's report. The statement as to these uncontested elements 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 each element of the water right (attach additional pages if necessary).

ELEMENTS

1. The name and address of the claimant is:

United States of America, acting through the
U.S. Department of Interior,
Bureau of Land Management,
Idaho State Office
3380 Americana Terrace
Boise, Idaho 83706-2500

Required statement:

This description accurately describes the claimant of this water right.

2. The source of water is:

Pass Creek tributary to Big Lost River

Required statement:

As recommended in the director's report.

3. The quantity of water used is:

0.16 c.f.s. not to exceed 13,000 gallons per day. 13,000 gallons per day is not a determination of actual historical beneficial use.

Required statement:

Quantity in c.f.s. is as recommended in the director's report. The additional statements are added pursuant to the decision in basin-wide issue #12 and the United States' motion for reconsideration.

4. The priority date is:

June 28, 1934

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:

TO7N R25E Sec. 23 NWSE (beginning point)
TO7N R25E Sec. 34 SESE (ending point)

Required statement:

As recommended in the director's report.

6. The purpose of use is:

Stockwater

Required statement:

As recommended in the director's report. Pursuant to the decision in basin-wide issue no. 12, stock numbers and wildlife are not described as a purpose of use. The United States reserves the right to challenge the Special Master's decision regarding the exclusion of wildlife. The purpose of use described in this agreement may change as a result of the Court's ultimate determination of this issue.

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

01-01 through 12-31

Required statement:

As recommended in the director's report.

8. The legal description of the place of use or of the reservation is:

TO7N R25E Sec. 23 NWSE
TO7N R25E Sec. 23 SWSE
TO7N R25E Sec. 26 NWNE
TO7N R25E Sec. 26 SWNE
TO7N R25E Sec. 26 SENW
TO7N R25E Sec. 26 NESW
TO7N R25E Sec. 26 SWSW
TO7N R25E Sec. 26 SESW
TO7N R25E Sec. 34 SESE
TO7N R25E Sec. 35 NWNW
TO7N R25E Sec. 35 SWNW
TO7N R25E Sec. 35 NWSW
TO7N R25E Sec. 35 SWSW

Required statement:

As recommended in the director's report.

9. The annual volume of consumptive use is:

Required statement:

This element was not reported by IDWR in the director's report. Pursuant to Idaho Code 42-1401A(2), this water right need not contain a determination of the annual volume of consumptive use.

10. Other necessary matters:

These matters are necessary because:

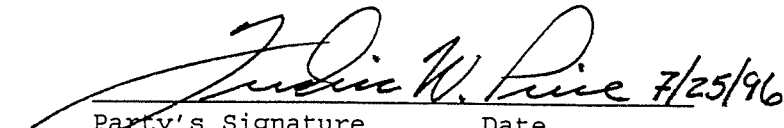
These matters do not fall within the 9 elements listed above because:

If IDWR has not concurred by signing below, signing parties certify that they have served a copy of this document on the Idaho Department of Water Resources and have made a good faith attempt to obtain IDWR's concurrence, but have failed.

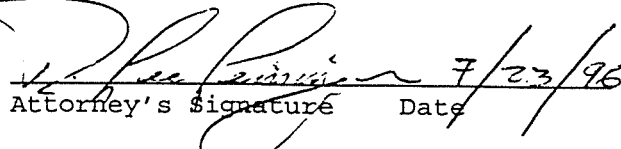
Signatures and Addresses of Parties and their Attorney of Record (attach additional page if necessary):

I have read this form and know its contents and the statements are true to the best of our knowledge and belief.

Name: United States of America, acting through
Department of Interior, Bureau of Land Management,
Idaho State Office
Address: 3380 Americana Terrace
City/State/Zip: Boise, Idaho 83706-2500
Attorney of Record: Daria J. Zane,
R. Lee Leininger,
P. Fritz Holleman, and
William M. Ferry
Phone: (202) 305-0471, 0242, 0494, (208) 334-1911


Party's Signature

7/25/96
Date


Attorney's Signature

7/23/96
Date

Party's Signature Date

Say W. Higby 8-1-96
Attorney's Signature & Date

Party's Signature Date

Ray W. Higby 8-1-96
Attorney's Signature Date

S.F. 5
Amended 5/14/96

INSTRUCTIONS FOR MAILING

You must mail this 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, postage prepaid and addressed as follows:

1. Original to:

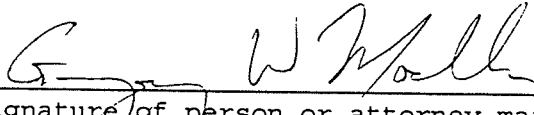
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copy to:

Idaho Department of Water Resources
Adjudication Bureau
P. O. Box 83720
Boise, Idaho 83720-0098

3. Copies to (insert names and addresses):

U.S., Department of Justice
Environment and Natural Resources Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724



Signature of person or attorney mailing the form

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: PASS CREEK						
TRIBUTARY: BIG LOST RIVER						

34-04164	US DEPT OF INTERIOR BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 3360 AMERICANA TERRACE BOISE ID 83706	06/28/1934	STOCKWATER	01-01 12-31	.16	CFS	BENEFICIAL USE
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TOTAL QUANTITY: .16 CFS

NON-IRRIGATION-USES:
STOCKWATER, 668 RANGE CATTLE; WILDLIFE, VARIABLE AMOUNT

POINT OF DIVERSION:

107N R25E S23 NWSE (B)
S34 SESE (E)

PLACE OF USE: STOCKWATER

107N R25E S23	NWSE	SUSE			
S26	NWSE	SWNE	SENU		NESW
	SUSW	SESW			
S34	SESE				
S35	NWNU	SWNU	NUSW		SUSW

REMARKS: 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.
BLM RECORD ID = 3403408129