

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>34-02550</u> |
|                | ) | (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 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:

U.S. Department of Interior,  
Bureau of Land Management,  
Idaho State Office  
3380 Americana Terrace  
Boise, Idaho 83706-2500

Required statement:

As recommended in the director's report.

2. The source of water is:

Drought Relief Spring tributary to Sinks

Required statement:

As recommended in the director's report.

3. The quantity of water used is:

0.01 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 as proposed in the United States' motion for reconsideration.

4. The priority date is:

January 8, 1946

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:

T04N R25E S33 NENWSW

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.

MS If the United States exercises a challenge to the Special Master's decision, Mitchell Sorensen reserves the right to object to the challenge, as well as the Element No. 1 of this subcase.

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:

T04N R25E S33 SWNE

Required statement:

The parties and IDWR stipulate that this is the correct description of this element. Change in place of use is made pursuant to Idaho Code 42-1425. Drought Relief Spring was originally developed between 1905 and 1910. At that time, a trough was located at the source. In 1946, that trough was relocated to its present location at the place of use described above (T04N R25E S33 SWNE).

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) (1996), this water right need not contain a determination of the annual volume of consumptive use.

10. Other necessary matters:

These matters are necessary because:

Pursuant to decision in basin-wide issue #12, the combined-use remark is not necessary to define this right. The statement concerning another right being diverted from this source is incorrect and is therefore not necessary to define this right. 34-02591 is diverted from a distinctly different source locally known as Mud Hole Spring.

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

#### Review By IDWR

To speed up the entry of a decree, the parties are encouraged to talk to the Idaho Department of Water Resources about their proposed settlement and have IDWR indicate its concurrence by signing the Standard Form 5.

Where all parties have signed, a Standard Form 5 may be filed with the court without the concurrence of IDWR. However, the parties must certify that they have served IDWR with a copy of Standard Form 5 and that they have made a good faith attempt to resolve the matter with IDWR.

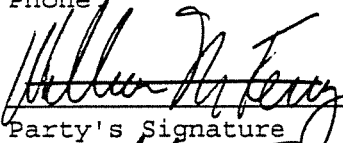
Within 14 days of filing a Standard Form 5 not containing an IDWR concurrence, IDWR shall file a statement of its position with the court.

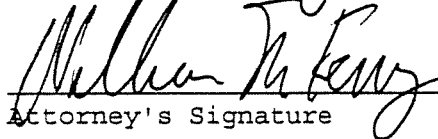
If IDWR has not concurred by signing below, signing parties certify that they have served a copy of this document on the Idaho Department of Water Resources and have made a good faith attempt to obtain IDWR's concurrence, but have failed.

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, (202) 305-0471  
R. Lee Leininger, (202) 305-0242  
P. Fritz Holleman, and (202) 305-0494  
William M. Ferry (208) 334-1911  
Phone: As Above.

  
\_\_\_\_\_  
Party's Signature Date

  
\_\_\_\_\_  
Attorney's Signature Date 8-26-96

Name: Mitchell D. Sorenson  
Address: Rt. 1, Box 63C-1  
City/State/Zip: Moore, Idaho 83255  
Attorney of Record: Pro Se  
Phone: (208) 527-3271

  
\_\_\_\_\_  
Party's Signature Date July 30, 1996

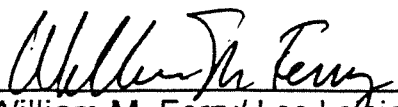
\_\_\_\_\_  
Attorney's Signature Date

IDWR Concurrence: \_\_\_\_\_  
Signature Date

**CERTIFICATE OF REVIEW BY IDWR**

I certify that the Standard Form Five for this subcase (No. 34-02550) has been signed by the parties and copies have been sent to the Idaho Department of Water Resources. In addition, the parties have made a good faith attempt to resolve the matter with IDWR.

Dated this 20<sup>th</sup> day of August, 1996.

  
\_\_\_\_\_  
William M. Ferry/ Lee Lehniger  
Attorneys, U.S. Department of Justice  
Environment and Natural Resources Div.

IDAHO DEPARTMENT OF WATER RESOURCES  
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: NOV-17-1992  
PAGE: A-90

| RIGHT<br>NUMBER                                                  | NAME & ADDRESS                                                                                                     | PRIORITY<br>DATE | PURPOSE OF USE | PERIOD OF USE<br>FROM TO | MAXIMUM<br>QUANTITY | BASIS OF CLAIM |
|------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|------------------|----------------|--------------------------|---------------------|----------------|
| SOURCE: DROUGHT RELIEF SPRING                                    |                                                                                                                    |                  |                |                          |                     |                |
| TRIBUTARY: SINKS                                                 |                                                                                                                    |                  |                |                          |                     |                |
| 34-02550                                                         | US DEPT OF INTERIOR<br>BUREAU OF LAND MANAGEMENT<br>IDAHO STATE OFFICE<br>3380 AMERICANA TERRACE<br>BOISE ID 83706 | 01/08/1946       | STOCKWATER     | 01-01 12-31              | .01                 | CFS LICENSE    |
| NON-IRRIGATION-USES:                                             |                                                                                                                    |                  |                |                          |                     |                |
| STOCKWATER, 61 RANGE CATTLE; WILDLIFE, VARIABLE AMOUNT           |                                                                                                                    |                  |                |                          |                     |                |
| POINT OF DIVERSION:                                              |                                                                                                                    |                  |                |                          |                     |                |
| T04N R25E S33                                                    |                                                                                                                    |                  |                |                          |                     |                |
| PLACE OF USE: STOCKWATER                                         |                                                                                                                    |                  |                |                          |                     |                |
| T04N R25E S33                                                    |                                                                                                                    |                  |                |                          |                     |                |
| NENWSW                                                           |                                                                                                                    |                  |                |                          |                     |                |
| 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 = 3403488036                                       |                                                                                                                    |                  |                |                          |                     |                |
| RIGHT NO. 34-02591 IS ALSO DIVERTED THROUGH POINT OF             |                                                                                                                    |                  |                |                          |                     |                |
| DIVERSION DESCRIBED ABOVE.                                       |                                                                                                                    |                  |                |                          |                     |                |
| TOTAL QUANTITY: .01 CFS                                          |                                                                                                                    |                  |                |                          |                     |                |
| 34-02591                                                         | US DEPT OF INTERIOR<br>BUREAU OF LAND MANAGEMENT<br>IDAHO STATE OFFICE<br>3380 AMERICANA TERRACE<br>BOISE ID 83706 | 03/26/1964       | STOCKWATER     | 01-01 12-31              | .03                 | CFS LICENSE    |
| NON-IRRIGATION-USES:                                             |                                                                                                                    |                  |                |                          |                     |                |
| STOCKWATER, 61 RANGE CATTLE; WILDLIFE, VARIABLE AMOUNT           |                                                                                                                    |                  |                |                          |                     |                |
| POINT OF DIVERSION:                                              |                                                                                                                    |                  |                |                          |                     |                |
| T04N R25E S33                                                    |                                                                                                                    |                  |                |                          |                     |                |
| PLACE OF USE: STOCKWATER                                         |                                                                                                                    |                  |                |                          |                     |                |
| T04N R25E S34                                                    |                                                                                                                    |                  |                |                          |                     |                |
| SWNW                                                             |                                                                                                                    |                  |                |                          |                     |                |
| 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 = 3403488077                                       |                                                                                                                    |                  |                |                          |                     |                |
| RIGHT NO. 34-02550 IS ALSO DIVERTED THROUGH POINT OF DIVERSION   |                                                                                                                    |                  |                |                          |                     |                |
| DESCRIBED ABOVE.                                                 |                                                                                                                    |                  |                |                          |                     |                |
| TOTAL QUANTITY: .03 CFS                                          |                                                                                                                    |                  |                |                          |                     |                |

## 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 Aug 27, 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

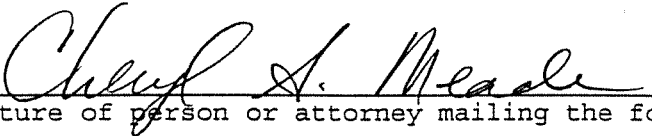
2. Copy to:

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

Mitchell D. Sorenson  
Rt. 1, Box 63C-1  
Moore, Idaho 83255

  
\_\_\_\_\_  
Signature of person or attorney mailing the form