

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>34-04178</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:

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:

Unnamed Stream tributary to Beck Canyon Creek

Required statement:

As recommended in the director's report.

3. The quantity of water used is:

0.03 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:

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:

T04N R25E S21 NWSWSW (Beginning point)

T04N R25E S29 SWNWNE (Beginning point)

T04N R25E S29 SENWSW (Beginning point)

T04N R25E S21 SENESW (Ending point)

T04N R25E S29 NENWNE (Ending point)

T04N R25E S29 NESENW (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.

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 R24E S21 NESW

T04N R24E S21 NWSW

T04N R24E S21 SWSW

T04N R25E S29 NWNE

T04N R25E S29 SENW

T04N R25E S29 NESW

T04N R25E S29 NWSW

Required statement:

As recommended in the director's report.

9. The annual volume of consumptive use is:

Pursuant to decision in basin-wide issue #12, the combined-use remark is not necessary to define this right.

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:

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 the
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
William M. Ferry 7-31-96

Attorney's Signature Date

Name: Lawrence Babcock
Address: RR 1, Box 66
City/State/Zip: Moore, Idaho 83255
Attorney of Record: Pro se
Phone: 208-527-3335

Lawrence Babcock 9/3/96

Party's Signature Date

Attorney's Signature Date

IDWR Concurrence: _____
Signature Date

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: NOV-17-1992
PAGE: A-1233

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
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SOURCE: UNNAMED STREAM
TRIBUTARY: BECK CANYON CREEK

34-04178

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706

06/28/1934 STOCKWATER

01-01 12-31

.03 CFS BENEFICIAL USE

NON-IRRIGATION-USES:

STOCKWATER, 91 RANGE CATTLE; WILDLIFE, VARIABLE AMOUNT

POINT OF DIVERSION:

T04N R25E S21

S29

NWSWSW (B)

SWNWNE (B)

SENWSW (B)

SENESW (E)

NENWNE (E)

NESENW (E)

TOTAL QUANTITY:

.03 CFS

PLACE OF USE: STOCKWATER

T04N R25E S21

S29

NESW

NWNE

NWSW

SENW

SWSW

NWSW

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 = 3403488143

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 September 4, 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

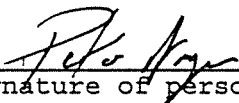
2. Copy to:

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

Lawrence Babcock
RR 1, Box 66
Moore, Idaho 83255



Signature of person or attorney mailing the form