

1996 SEP 24 PM 12:52

DISTRICT COURT - SRBA
TWIN FALLS, IDAHO

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: 36-00084
	)	
	)	PROPOSED ELEMENTS OF A
	)	WATER RIGHT

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

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 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:

Shelby and Joan Wise
RT. 1 Box 240
Hagerman, ID 83332

Required Statement: AS RECOMMENDED IN THE DIRECTOR'S REPORT

2. The source of water is: Len Lewis Spring,
Tributary to Riley Creek

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	1.40 c.f.s.
Stockwater	<u>.02</u> c.f.s.
Total Quantity	1.40 c.f.s.

The Appropriator is entitled to the quantity of water described for stockwater purposes at a point of measurement where the delivery ditch enters the place of use.

Cumulative use of this water right, together with water right nos. 36-00012, 36-00030, 36-00043A, 36-00104A and 36-00104B, for stockwater or other non-irrigation purposes outside of the irrigation season shall be limited to 4.0 c.f.s.

Required Statement: As decreed in New International Mortgage Bank v. Idaho Power Company, (S.D. Idaho, Mar 22, 1932).

4. The priority date is: 09/01/1889

Required Statement: AS RECOMMENDED IN THE DIRECTOR'S REPORT

5. The legal description of 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:

T08S R14E S06

SESWNE

Required Statement: AS RECOMMENDED IN THE DIRECTOR'S REPORT

6. The purpose of use is: Irrigation, stock water

Required Statement: The parties stipulate that this is the correct description of the purposes for which the water has been used.

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

IRRIGATION: Irrigation Season
STOCK WATER: Jan. 1 to Dec.31

Required Statement: The parties stipulate that this is the correct description of the period of year when water is to be used.

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

Irrigation		Section	1/4 of 1/4		Acres
Twnshp	Range		SW	NE	
07S	13E	36	SW	NE	7.0
07S	13E	36	SE	NW	16.0
Total Acres					23.0

Required Statement: AS RECOMMENDED IN THE DIRECTOR'S REPORT

9. The annual volume of consumptive use is: 80.5 acre-feet, or as determined by the Court.

Required Statement: Based upon additional analysis by IDWR

10. Other matters necessary to define this water right:

Explanatory Material: The operation and administration of this water right is also subject to the Stipulation dated September 11, 1996 among the United States of America and the claimants under the Brailsford Ditch, which is on file in the records of the Clerk and Recorder, Gooding County Idaho.

Required Statement: This provision is necessary for the administration and definition of the water right, as the

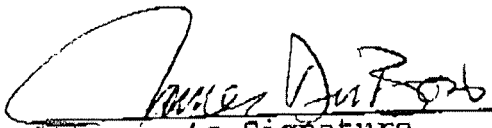
Stipulation will govern administration of the water right at certain times of the year, and under certain conditions.

Signature and Address of Parties and their Attorney of Record (attach additional page if necessary)

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

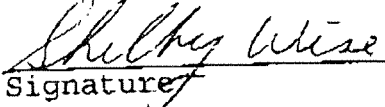
Name of Objector:

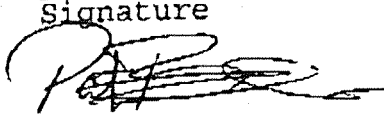
Name: United States of America on behalf of
U.S. Fish & Wildlife Service
Address: c/o U. S. Dept. of Justice
Environment and Natural Resources Div.
999 18th Street, Ste. 945
City/State: Denver, CO 80202
Attorney of Record: James J. DuBois

 9/23/96
Attorney's Signature Date

Name of Claimant:

Name: Shelby and Joan Wise
Address: Route 1, Box 240
City/State: Hagerman, ID 83332

 9-16-96
Signature Date

Signature Date
 9/13/96

Patrick D. Brown
Attorney for the Wises

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 SEPTEMBER 23, 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:

United States Department of Justice
Environment & Natural Resources
Division
550 West Fort Street, MSC 033
Boise, Idaho 83724

Shelby and Joan Wise
Route 1, Box 240
Hagerman, ID 83332

Patrick Brown
Hepworth, Lezamiz & Hohnhorst
P.O. Box 389
Twin Falls, Idaho 83303-0389

Monty L. Silver
Signature of person or attorney
mailing the form