

1996 SEP 24 AM 11: 51
LODGED
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED *OK*

**IDWR REPORT RE: REVIEW
OF STANDARD FORM 5**

In Re SRBA
Twin Falls County Civil Case No. 39576
Sub-Case No. 36-00084

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
Karl J. Dreher, Director
David R. Tuthill Jr., Acting Adjudication Bureau Chief

September 20, 1996

DESCRIPTIVE SUMMARY

IDWR has not reviewed a conformed copy of the Standard Form 5 filed in this subcase. However, to avoid litigation, IDWR has reviewed and discussed with the parties the Standard Form 5 that the parties have represented will be filed with the Court. Based on those discussions and its review of the unfiled Standard Form 5, IDWR submits this report to inform the Court and the parties that the Director will not sign the Standard Form 5 in this subcase.

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] 3. Quantity

Pursuant to Idaho Code §42-1401B, the Director of the Idaho Department of Water Resources recommended a quantity of .60 cfs pursuant to the claim to water right no. 36-00084. The parties have stipulated that the correct quantity is the 1.40 cfs that was decreed to this right in the decree from *New International Mortgage Bank v. Idaho Power Company*, (S.D. Idaho, Mar 22, 1932). IDWR recognizes that unless, and until such time as, the Special Master's Second Amended Decision on Summary Judgment issued September 13, 1996, is modified or subsequently overturned, it is controlling on this issue. Nonetheless, IDWR's statutory duty pursuant to Idaho Code §42-1401B is to recommend the extent of beneficial use to the court. Therefore, it can not sign this Standard Form Five.

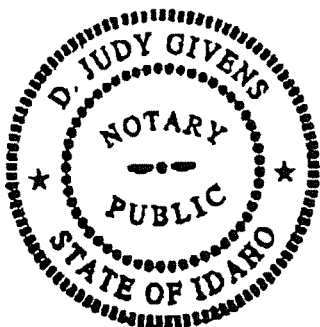
For the reasons stated above, IDWR can not sign the Standard Form Five submitted

by the parties to this subcase.

Dated this 20th day of September, 1996

Charles L. Honsinger
Charles L. Honsinger
Deputy Attorney General
Idaho Department of Water Resources

SUBSCRIBED AND SWORN before me, a notary public in and for the state
of IDAHO, this 20 day of September, 1996.



D. Judy Givens
Notary Public for Idaho,
residing in Boise, Idaho.
My commission expires:

CERTIFICATE OF MAILING

I certify that on September 23rd, 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:

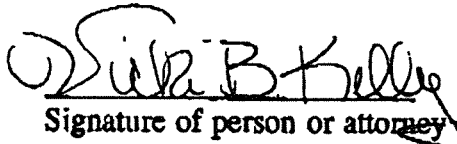
1. Original to:

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:

Patrick D. Brown
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Signature of person or attorney
mailing form