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

In Re SRBA  
Twin Falls County Civil Case No. 39576  
Sub-Case No. 36-04074

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 26, 1996

### **DESCRIPTIVE SUMMARY**

IDWR submits this report to inform the Court and the parties that IDWR has reviewed the Standard Form 5 submitted by the parties in this subcase and that the Director will not sign the Standard Form 5.

### **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**

The Standard Form 5 lists the quantity as 1.40 cfs. The quantity asserted in the Standard Form 5 is the quantity claimed in the original claim, but greater than the quantity claimed in the amended claim. The quantity should be listed as 0.82 cfs. IDWR determined that the historical place of use contained 41 acres. Because the property was irrigated by sprinklers, IDWR applied the statutory diversion rate of 0.02 cfs per acre. IDWR's investigation did not yield, and the claimant did not provide, information to support a conclusion that a greater amount was historically used and reasonably required for irrigation of the 41 acres. IDWR's investigation is described in its Report Regarding Claims to Water Right Nos. 36-04148A, 36-04148B, 36-04074 dated June 11, 1996, and its Report Regarding Claim to Water Right Nos. 36-04148A, 36-04148B, 36-04074 dated August 15, 1996 (including the Evaluation of Irrigation Diversion Rate and the Report Regarding Evaluation of Irrigation Diversion Rates submitted with that Report), both of which are incorporated by reference herein.

This water right is used in conjunction with water right no. 36-10154 to irrigate the place of use. Because water right no. 36-10154 is an expansion of this right no. 36-04074 pursuant to Idaho Code §42-1416(2) (since repealed and replaced by Idaho Code §42-1426), the quantity element should contain a remark limiting the use of both rights to a combined diversion rate of 0.82 cfs.

**[X]    4. Priority Date**

The Standard Form 5 lists the priority date as August 23, 1893. The priority date should be listed as February 1, 1937 which is the priority date claimed in both the original and amended claims, and is the priority date recommended in the director's report. The claimant's objection does not contest the recommended priority date. The first documentation of beneficial use was the Idaho Power Indenture, dated August 27, 1927. This indenture describes the Clear Lake source being used on the place of use historically irrigated with right no. 36-04074. Because the Indenture shows the right was being used by the claimed priority date, IDWR recommended the priority date as claimed.

**[X]    8. Place of Use**

The Standard Form 5 describes the irrigated acreage as 158.4 acres, which is greater than the amount of irrigated acres claimed in either the original claim or the amended claim. Claimants claimed a place of use of 46.0 acres. IDWR found a historical place of use of 41 acres. IDWR found that 36-10154 was an expansion of right no. 36-04074 under Idaho Code §42-1416 (since repealed and replaced by Idaho Code §42-1426). IDWR found that an additional 5.6 acres were irrigated beginning March 1, 1985, which is the priority date claimed and recommended under right no. 36-10154. To accurately reflect this fact, the

irrigated acreage should be listed as 46.6 acres with the limitation that irrigation pursuant to this right is limited to 41 acres and irrigation pursuant to both rights is limited to 46.6 acres in an irrigation season.

**[X]    9. Consumptive Use**

The Standard Form 5 lists the annual volume of consumptive use as 189 AFA (1.19 AFY/acre), which is a greater amount than that claimed in either the original claim or the amended claim. The annual volume of consumptive use recommended in the director's report is 139.8 AFY (3.0 AFY/acre). The claimant's objection does not contest the consumptive use recommendation.

IDWR developed standards for annual volume of consumptive use for the various climatic areas throughout the state. The standard originally determined for the area of the claimant's place of use was 3.0 AFY/acre. IDWR has since further studied and amended the consumptive use standard for the Hagerman area to 3.5 AFY/acre. IDWR's study of consumptive use in the Hagerman area is described in IDWR's Report Regarding Consumptive Use in the Hagerman Area, submitted to the Court July 1, 1996, and IDWR's Report Regarding Annual Volume of Consumptive Use submitted to the Court September 18, 1996, both of which are incorporated in their entirety by reference herein.

This water right is used in conjunction with water right no. 36-10154 to irrigate 46.6 acres in the place of use. The consumptive use element should thus contain a remark limiting the use of both rights to an annual consumptive use of 163.1 AFY.

For the reasons stated above, the Director of the Idaho Department of Water

Resources will not sign the Standard Form Five submitted by the parties to this subcase.

Dated this 26<sup>th</sup> day of September, 1996

Charles L. Honsinger

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

## CERTIFICATE OF MAILING

I certify that on September 26<sup>th</sup>, 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:

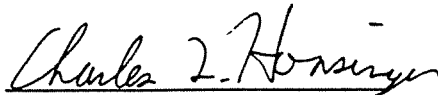
1. Original to:

Clerk of the District Court  
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