

RECEIVED
SEP 27 1996
Department of Water Resources
Adjudication Bureau

SEP 26 AM 9:57
LODGED
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA
Twin Falls County Civil Case No. 39576
Sub-Case No. 36-04148B

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 1.50 cfs. The quantity should be listed as 0.46 cfs. IDWR determined that the historical place of use contained twenty-three acres. Because the property is 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 twenty-three 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 diverted from the same point of diversion as water right nos. 36-04076, 36-02048, 36-02703, 36-04013A, 36-04013B, and 36-04013C which, together with

this right, have a cumulative recommended diversion rate of 120.05 cfs. The capacity of the diversion system is 116.0 cfs. Thus, to accurately reflect actual use, a statement must limit the use of this right with the above listed rights to a combined diversion rate of 116.0 cfs.

[X] 4. Priority Date

The Standard Form 5 lists the priority date as August 23, 1893. The priority date should be listed as January 1, 1927 which 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 of this right was the Idaho Power Indenture, dated August 27, 1927. This indenture describes the source being used on the place of use historically irrigated with right no. 36-04148. IDWR recommended the priority date as the date of the indenture because it is the date of the first evidence of beneficial use and is consistent with the priority date claimed.

[X] 8. Place of Use

The Standard Form 5 also lists the irrigated acreage as 158.4 acres. Claimants claimed a place of use of ninety acres. IDWR established the historical acreage irrigated by the spring source as twenty-three acres. Thus, the irrigated acreage should be listed as twenty-three acres.

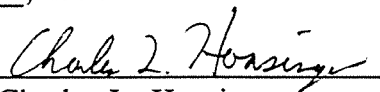
[X] 9. Consumptive Use

The Standard Form 5 lists the annual volume of consumptive use as 202.5 AFA (1.28 AFY/acre). The annual volume of consumptive use recommended in the director's report is 69.0 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. Based on the 3.5 AFY/acre standard, the annual volume of consumptive use should be listed as 80.5 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 26th day of September, 1996



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

CERTIFICATE OF MAILING

I certify that on September 26th, 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:

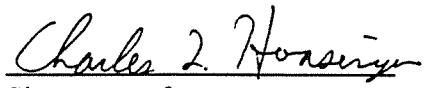
1. Original to:

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
Hepworth, Lezamiz & Hohnhorst
Box 389
Twin Falls, ID 83303

Norman M. Semanko
Rosholt, Robertson & Tucker
Box 1906
Twin Falls, ID 83303


Signature of person or attorney
mailing form