

**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	)	Subcase No.: <u>61-00308</u>
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

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.

The parties agree and stipulate that the elements of this water right should be described in accordance with the attached pages, which have been initialed by the parties. Each party shall bear such party's own costs and attorney fees in the above-captioned matter. In the event IDWR does not indicate its concurrence with this Standard Form 5, and the elements of this water right are subsequently changed through settlement with IDWR or through judicial proceedings, the claimant of the water right hereby agrees that claimant will not allow any element of this water right to be increased (i.e. increases to quantity, purposes of use, season of use, number of irrigated acres, or changes to a more senior priority date or different points of diversion) unless expressly agreed to in writing by the parties; claimant, however, may without the prior approval of the parties hereto permit the location of the irrigated acres to be changed to other locations on claimant's land, which does not include public lands, and the change does not increase the total number of irrigated acres stipulated hereto.

Mary Batruel 9-19-2002
Mary Batruel Date

Paul Batruel 9-19-2002
Paul Batruel Date

Larry A. Brown 10/22/02
U.S. Bureau of Land Management Date FWP
By: Larry A. Brown
ATTORNEY FOR BLM

IDWR Concurrence Date

APPROVED AS TO FORM BY:

[Signature] 10-19-02
Matt J. Howard Date
Attorney for Mary Batruel, Paul Batruel,
and Batruel Dairy

Larry A. Brown 10/22/02
Larry A. Brown FWP Date
Of Attorneys for U.S. BLM

Candice McHugh Date
Idaho Deputy Attorney General, IDWR

12/28/2000

IDAHO DEPARTMENT OF WATER RESOURCES
AMENDED RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 61-308

NAME AND ADDRESS: MARY BATRUEL
PAUL BATRUEL
BATRUEL DAIRY
RT 1 BOX 428
GLENNS FERRY, ID 83623

SOURCE: LITTLE CANYON CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 200.00 CFS
700.00 AFY

Fwp Jgs

THE QUANTITY OF WATER UNDER THIS RIGHT FOR
STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER
DAY.

PRIORITY DATE: 08/07/1895

POINT OF DIVERSION: T04S R10E S9 NENWNE Within ELMORE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION STORAGE	01-01 12-31	700.00 AFY
IRRIGATION FROM STORAGE	03-15 11-15	700.00 AFY
STOCKWATER STORAGE	01-01 12-31	14.50 AFY
STOCKWATER FROM STORAGE	01-01 12-31	14.50 AFY
DIVERSION TO STORAGE	01-01 12-31	200.00 CFS
DOMESTIC STORAGE	01-01 12-31	8.00 AFY
DOMESTIC FROM STORAGE	01-01 12-31	8.00 AFY

PLACE OF USE:

IRRIGATION STORAGE Within ELMORE County

T05S R09E S12	SWNE	T05S R09E S12	SWNW
T05S R09E S12	SENE	T05S R09E S12	NESW
T05S R09E S12	NWSW	T05S R09E S12	NWSE

IRRIGATION FROM STORAGE Within ELMORE County

T05S R09E S12	NWSE	5	T05S R09E S12	SWSE	7
T05S R09E S13	NWNE	3	T05S R09E S13	SWNE	24
T05S R09E S13	SENE	16	T05S R09E S13	NENW	19.5
T05S R09E S13	NWNW	1.5	T05S R09E S13	SWNW	1.0
T05S R09E S13	NESE	39	T05S R09E S13	NWSE	16
T05S R09E S13	SESE	13	T05S R09E S13	SENE	19
T05S R10E S18	SENE	30	T05S R10E S18	NWSW	39
T05S R10E S18	SWSW	38	T05S R10E S18	NESE	17
T05S R10E S18	NWSE	40			

328 ACRES TOTAL

STOCKWATER STORAGE same as
IRRIGATION STORAGE

STOCKWATER from storage same as
IRRIGATION from storage

DOMESTIC STORAGE same as
IRRIGATION STORAGE

*JMS
FOS*

DOMESTIC from Storage Within
ELMORE County
T05S R09E S13 SWNE
T05S R10E S18 LOT 3 NWSW

FUP

T05S R09E S13 LOT 2 SENE

USE OF THIS RIGHT WITH RIGHT NOS. 61-00293B, 61-00303B, 61-00304B, 61-04132, 61-10834, 61-11921 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 328 ACRES IN A SINGLE IRRIGATION SEASON.

195

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

STOCKWATER USE INCLUDES USE FOR SMALL DAIRY AND LAND APPLICATION OF WASTE WATER WITHIN POU.
DOMESTIC USE FOR 3 HOUSES

*7113
POB*

CERTIFICATE OF SERVICE

I certify that on Oct 22, 2002, I caused to be served true and correct copies of this Standard Form 5, to the following persons, via first-class U. S. mail at the addresses provided below:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

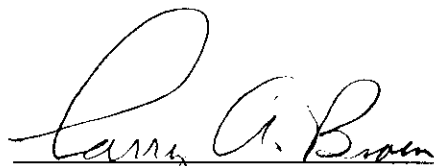
Larry Brown
U. S. Department of Justice
550 W. Fort Street, MSC 033
Boise, ID 83724
Of Attorneys for U. S. BLM

Charles L. Honsinger
Ringert Clark, Chtd
P. O. Box 2773
Boise, ID 83701
Of Attorneys for Carlene Smith

Norman M. Semanko / Amy D. Chestnut
Barker, Rosholt, Simpson, LLP
P. O. Box 2139
Boise, ID 83709
Of Attorneys for Roger L. Jones and Fresh-Pak, Inc.

Matt J. Howard
Attorney at Law
P. O. Box 190012
Boise, ID 83719
Attorney for Mary Batruel, Paul Batruel, and Batruel Dairy

Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098



Signature of person or attorney mailing the form