



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

July 27, 2004

Special Master Brigitte Bilyeu
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

Re: SRBA Subcase Nos. 29-376, 29-377, 29-389, 29-390, 29-4079 and 29-4080

Dear Special Master Bilyeu:

Enclosed please find SF5s for the above subcases. For Subcase No. 29-4079, I have provided an Amended SF5. An SF5 in that subcase was previously filed on May 19, 2004. A Special Master's Report and Recommendation was filed for this Subcase on June 1, 2004, however, after reviewing it along with the other subcases listed above, it was determined that changes were necessary to 29-4079.

If you have any questions concerning this matter, please call me at (208) 327-5404.

Very Truly Yours,

Candice M. McHugh
Candice M. McHugh

cc: Tolers

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

Case No. 39576

SUBCASE NO: 29-4079

AMENDED
STANDARD FORM 5

STIPULATED ELEMENTS OF A
WATER RIGHT

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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 that they have appeared, prosecuted and defended their positions with regard to this water right dispute.

An SF5 was filed in this subcase on May 19, 2004. However, as a result of settlement activity in the overlapping contested right, 29-4080, additional changes to subcase no. 29-4079 were required. Hence, this Amended SF5 supercedes the original SF5. The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR indicate their concurrence by their signatures below and by initialing each of the attached pages.

CLAIMANT/ OBJECTOR:

Maurice Toler 7-22-04
Maurice Toler Date

CLAIMANT/ OBJECTOR:

Helen Toler 7/22/04
Helen Toler Date

IDWR CONCURRENCE:

Ernie Carlsen July 27, 2004
Ernie Carlsen Date
Adjudication Supervisor, IDWR

Candice M. McHugh 7/26/04
Candice M. McHugh Date
Attorney for IDWR

CERTIFICATE OF MAILING

I certify that on July 27, 2004 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:

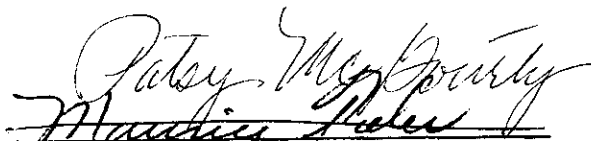
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2. Copies to:

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P.O. Box 83720
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IDWR Document Repository
P.O. Box 83720
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Maurice and Helen Toler
231 E Glover Rd.
Armo, ID 83214


Signature of person or attorney mailing the form

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 29-4079

NAME AND ADDRESS:

HELEN TOLER
231 E GLOVER RD
ARIMO ID 83214
MAURICE A TOLER
231 E GLOVER RD
ARIMO ID 83214

SOURCE:

Source:

GARDEN CREEK
SPRINGS

Tributary:

MARSH CREEK
GARDEN CREEK

QUANTITY:

1.000 CFS
0.000 AFY

0.580 CFS

Use of the rights listed below is limited to a total combined diversion rate of 3.50 cfs.
Combined Right Nos.: 29-376, 29-377, 29-389, 29-390, 29-4079 and 29-4080.

PRIORITY DATE:

04/01/1921

POINT OF DIVERSION:

T10S R36E S11 SENWNW
Within BANNOCK County

T10S R36E S11 SWSENW
Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

IRRIGATION

04/01 10/31

1.000 CFS
0.580 CFS

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

PLACE OF USE: IRRIGATION within BANNOCK County

T10S R36E S02 SWNE 7.3

T10S R36E S02 SENW 4.4

T10S R36E S02 NESW 7.7

T10S R36E S02 NESW 45.0

T10S R36E S02 SWSW 5.4

T10S R36E S02 SESW 12.0

T10S R36E S02 SESW 7.0

T10S R36E S02 NWSE 3.8

T10S R36E S11 NENW 4.4

T10S R36E S11 SENW 1.9

37.1 ACRES TOTAL

28.8 ACRES TOTAL

711A H.R.

Use of the rights listed below is limited to the irrigation of a combined total of 117.2 acres in a single irrigation season. Combined Right Nos.: 29-376, 29-377, 29-399, 29-390, 29-4079 and 29-4080.

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.

Sm^e Eric

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Use of this right is combined with water from Garden Creek Irrigation Co.

**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

Case No. 39576

SUBCASE NO: 29-4080

STANDARD FORM 5

STIPULATED ELEMENTS OF A
WATER RIGHT

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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 that they have appeared, prosecuted and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR indicate their concurrence by their signatures below and by initialing each of the attached pages.

CLAIMANT/ OBJECTOR:

Maurice Toler 7-22-04
Maurice Toler Date

CLAIMANT/ OBJECTOR:

Helen Toler 7/22/04
Helen Toler Date

IDWR CONCURRENCE:

Ernie Carlson July 27, 2004
Ernie Carlson
Adjudication Supervisor, IDWR Date

Candice M. McHugh 7/26/04
Candice M. McHugh
Attorney for IDWR Date

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IDWR Document Repository
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Boise, ID 83720-0098

Maurice and Helen Toler
231 E Glover Rd.
Arimo, ID 83214


Signature of person or attorney mailing the form

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 29-4080

NAME AND ADDRESS:

HELEN TOLER
231 E GLOVER RD
ARIMO ID 83214

MAURICE A TOLER
231 E GLOVER RD
ARIMO ID 83214

SOURCE: Source:
GARDEN CREEK

Tributary:
MARSH CREEK

QUANTITY: 0.720 CFS
0.000 AFY

0.000 CFS

7219 H.T.
Use of the rights listed below is limited to a total combined diversion rate of 3.50 cfs.
Combined Right Nos.: 29-376, 29-377, 29-389, 29-390, 29-4079 and 29-4080.

PRIORITY DATE: 04/01/1919
07/08/1886

SM^e EMC

POINT OF DIVERSION:

T10S R36E S11 NWNW
Within BANNOCK County

T10S R36E S11 SENWNW
Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

IRRIGATION

04/01 10/31

0.720 CFS

04/01 11/01

0.000 CFS

PLACE OF USE:

IRRIGATION

within BANNOCK County

T10S R36E S02 SENW 1.4

T10S R36E S02 NESW 15.0

T10S R36E S02 SWSW 5.4

T10S R36E S02 SE5W 7.0

T10S R36E S02 NESW

T10S R36E S02 SWSW

T10S R36E S02 SE5W

28.8 ACRES TOTAL

2.6 ACRES TOTAL

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

Use of the rights listed below is limited to the irrigation of a combined total of 117.2 acres in a single irrigation season. Combined Right Nos.: 29-376, 29-377, 29-389, 29-390, 29-4079 and 29-4080.

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.

RIGHT NOT CLAIMED IN PRIOR ADJUDICATION: This is included for a claim that is PROPOSED to be disallowed because rights to water from the source claimed were determined in a prior general adjudication, the right was not decreed in the prior adjudication, and the claim cannot be recommended based upon beneficial use.
RIGHT NOT CLAIMED IN PRIOR ADJUDICATION.

MA
H.T.
SMC
EMC

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Use of this right is combined with water from Garden Creek Irrigation Co.

**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: 29-376
) (UNCONTESTED OVERLAP
) OF 29-4079 AND 29-4080)
)
)
)

Case No. 39576

) STANDARD FORM 5
)
)
)

) STIPULATED ELEMENTS OF A
) WATER RIGHT
)

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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 that they have appeared, prosecuted and defended their positions with regard to this water right dispute.

Water right no. 29-376 is an uncontested overlap of subcase nos. 29-4079 and 29-4080. As a result of settlement, the quantity and place of use remarks in water right no. 29-376 have changed. The parties and IDWR agree and stipulate that the elements of water right no. 29-376 should be described per the attached. The parties and IDWR indicate their concurrence by their signatures below and by initialing each of the attached pages.

CLAIMANT/ OBJECTOR:

Maurice Toler 7-22-04
Maurice Toler Date

CLAIMANT/ OBJECTOR:

Helen Toler 7/22/04
Helen Toler Date

IDWR CONCURRENCE:

Ernie Carlsen July 27, 2004
Ernie Carlsen Date
Adjudication Supervisor, IDWR

Candice M. McHugh 7/26/04
Candice M. McHugh Date
Attorney for IDWR

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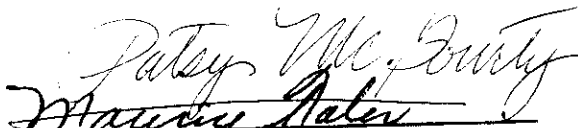
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IDWR Document Repository
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Boise, ID 83720-0098

Maurice and Helen Toler
231 E Glover Rd.
Arimo, ID 83214


Maurice Toler
Signature of person or attorney mailing the form

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 29-376

NAME AND ADDRESS:

HELEN TOLER
231 E GLOVER RD
ARIMO ID 83214
MAURICE A TOLER
231 E GLOVER RD
ARIMO ID 83214

SOURCE:

Source:
GARDEN CREEK

Tributary:

MARSH CREEK

QUANTITY:

0.750 CFS

0.000 AFY

Use of the rights listed below is limited to a total combined diversion rate of 3.50 cfs.
Combined Right Nos.: 29-376, 29-377, 29-389, 29-390, 29-4079 and 29-4080.
USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 2.34 CFS. COMBINED RIGHT NOS.: 29-376,
29-377, 29-389, AND 29-390.

PRIORITY DATE:

05/01/1897

POINT OF DIVERSION:

T10S R36E S7 SWNWNE
T10S R36E S11 SENWNW
T10S R36E S11 SWSNW

Within BANNOCK County
Within BANNOCK County
Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

IRRIGATION

04/01 10/31

0.750 CFS

PLACE OF USE:

IRRIGATION

within BANNOCK County

T10S R36E S02 SWNE 7.3
T10S R36E S02 SENW 1.4
T10S R36E S02 NESW 23.0
T10S R36E S02 SWSW 5.4
T10S R36E S02 SESW 19.0
T10S R36E S02 NWSE 3.8
T10S R36E S11 NENW 4.4
T10S R36E S11 MWNW 15.0
T10S R36E S11 SWNW 26.0
T10S R36E S11 SENW 1.9
T10S R36E S11 NWSW 10.0

117.2 ACRES TOTAL

Use of the rights listed below is limited to the irrigation of a combined total of 117.2 acres
in a single irrigation season. Combined Right Nos.: 29-376, 29-377, 29-389, 29-390,
29-4079 and 29-4080.

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

This right is limited to the irrigation of 37.5 acres within the place of use described above in a single irrigation season.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 147.2 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-376, 29-377, 29-389, AND 29-390. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 37.5 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

M. J. H.T.

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.

gmc

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Use of this right is combined with water from Garden Creek Irrigation Co.

8m=

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 29-376, 29-377, 29-389, AND 29-390.

**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: 29-389
) (UNCONTESTED OVERLAP
) OF 29-4079 AND 29-4080)
)
)
)

Case No. 39576

) STANDARD FORM 5
)
)
)

) STIPULATED ELEMENTS OF A
) WATER RIGHT
)

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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 that they have appeared, prosecuted and defended their positions with regard to this water right dispute.

Water right no. 29-389 is an uncontested overlap of subcase nos. 29-4079 and 29-4080. As a result of settlement, the quantity and place of use remarks in water right no. 29-389 have changed. The parties and IDWR agree and stipulate that the elements of water right no. 29-389 should be described per the attached. The parties and IDWR indicate their concurrence by their signatures below and by initialing each of the attached pages.

CLAIMANT/ OBJECTOR:

Maurice Toler 7-22-04
Maurice Toler Date

CLAIMANT/ OBJECTOR:

Helen Toler 7/22/04
Helen Toler Date

IDWR CONCURRENCE:

Ernie Carlsen July 27, 2004
Ernie Carlsen Date
Adjudication Supervisor, IDWR

Candice M. McHugh 7/26/04
Candice M. McHugh Date
Attorney for IDWR

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Maurice and Helen Toler
231 E Glover Rd.
Armo, ID 83214



Signature of person or attorney mailing the form

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 29-389

NAME AND ADDRESS:

HELEN TOLER
231 E GLOVER RD
ARIMO ID 83214
MAURICE A TOLER
231 E GLOVER RD
ARIMO ID 83214

SOURCE:

Source:
GARDEN CREEK

Tributary:
MARSH CREEK

QUANTITY:

0.750 CFS

0.000 AFY

Use of the rights listed below is limited to a total combined diversion rate of 3.50 cfs.
Combined Right Nos.: 29-376, 29-377, 29-389, 29-390, 29-4079 and 29-4080.

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 2.34 CFS. COMBINED RIGHT NOS.: 29-376,
29-377, 29-389, AND 29-390.

PRIORITY DATE:

05/01/1896

POINT OF DIVERSION:

T10S R36E S7 SWNWNE	Within BANNOCK County
<u>T10S R36E S11 SENWNW</u>	<u>Within BANNOCK County</u>
T10S R36E S11 SWSENE	Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

IRRIGATION

04/01 10/31

0.750 CFS

PLACE OF USE:

IRRIGATION within BANNOCK County

T10S R36E S02 SWNE 7.3
T10S R36E S02 SENW 1.4
T10S R36E S02 NESW 23.0
T10S R36E S02 SWSW 5.4
T10S R36E S02 SESW 19.0
T10S R36E S02 NWSE 3.8
T10S R36E S11 NENW 4.4
T10S R36E S11 NWNW 15.0
T10S R36E S11 SWNW 26.0
T10S R36E S11 SENW 1.9
T10S R36E S11 NWSW 10.0

117.2 ACRES TOTAL

SF5 - Water Right No.: 29-389 (Uncontested Overlap of 29-4079 and 29-4080)

Page

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

Use of the rights listed below is limited to the irrigation of a combined total of 117.2 acres in a single irrigation season. Combined Right Nos.: 29-376, 29-377, 29-389, 29-390, 29-4079 and 29-4080.

This right is limited to the irrigation of 37.5 acres within the place of use described above in a single irrigation season.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 117.2 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-376, 29-377, 29-389, AND 29-390.

*MD
H.H.*

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.

EMC

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Use of this right is combined with water from Garden Creek Irrigation Co.

SM

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 29-376, 29-377, 29-389, AND 29-390.

**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: 29-390
) (UNCONTESTED OVERLAP
) OF 29-4079 AND 29-4080)
)
)
)

Case No. 39576

) STANDARD FORM 5
)
)
)

) STIPULATED ELEMENTS OF A
) WATER RIGHT
)
_____)

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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 that they have appeared, prosecuted and defended their positions with regard to this water right dispute.

Water right no. 29-390 is an uncontested overlap of subcase nos. 29-4079 and 29-4080. As a result of settlement, the quantity and place of use remarks in water right no. 29-390 have changed. The parties and IDWR agree and stipulate that the elements of water right no. 29-390 should be described per the attached. The parties and IDWR indicate their concurrence by their signatures below and by initialing each of the attached pages.

CLAIMANT/ OBJECTOR:

Maurice Toler 7-22-04
Maurice Toler Date

CLAIMANT/ OBJECTOR:

Helen Toler 7/22/04
Helen Toler Date

IDWR CONCURRENCE:

Ernie Carlsen July 27, 2004
Ernie Carlsen Date
Adjudication Supervisor, IDWR

Candice M. McHugh 7/24/04
Candice M. McHugh Date
Attorney for IDWR

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Maurice and Helen Toler
231 E Glover Rd.
Arimo, ID 83214


Signature of person or attorney mailing the form

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 29-390

NAME AND ADDRESS:

HELEN TOLER
231 E GLOVER RD
ARIMO ID 83214

MAURICE A TOLER
231 E GLOVER RD
ARIMO ID 83214

SOURCE:

Source:
GARDEN CREEK

Tributary:
MARSH CREEK

QUANTITY:

1.000 CFS

0.000 AFY

Use of the rights listed below is limited to a total combined diversion rate of 3.50 cfs.
Combined Right Nos.: 29-376, 29-377, 29-389, 29-390, 29-4079 and 29-4080.

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 2.34 CFS. COMBINED RIGHT NOS.: 29-376,
29-377, 29-389, AND 29-390.

PRIORITY DATE: 05/01/1904

POINT OF DIVERSION:

T10S R36E S7 SENWNE Within BANNOCK County
T10S R36E S11 SENWNW Within BANNOCK County
T10S R36E S11 SWSNW Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

IRRIGATION

04/01 10/31

1.000 CFS

PLACE OF USE:

IRRIGATION

within BANNOCK County

T10S R36E S02 SWNE 7.3
T10S R36E S02 SENW 1.4
T10S R36E S02 NESW 23.0
T10S R36E S02 SWSW 5.4
T10S R36E S02 SESW 19.0
T10S R36E S02 NWSE 3.8
T10S R36E S11 NENW 4.4
T10S R36E S11 NWNW 15.0
T10S R36E S11 SWNW 26.0
T10S R36E S11 SENW 1.9
T10S R36E S11 NWSW 10.0

117.2 ACRES TOTAL

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

Use of the rights listed below is limited to the irrigation of a combined total of 117.2 acres in a single irrigation season. Combined Right Nos.: 29-376, 29-377, 29-389, 29-390, 29-4079 and 29-4080.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 117.2 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-376, 29-377, 29-389, AND 29-390. *MMH*

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 60.0 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. *H.T.*

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

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. *SMC*

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Use of this right is combined with water from Garden Creek Irrigation Co.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 29-376, 29-377, 29-389, AND 29-390.

**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: 29-377
) (UNCONTESTED OVERLAP
) OF 29-4079 AND 29-4080)
)
)
)

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. 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; and 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.

Water right no. 29-377 is an uncontested overlap of subcase nos. 29-4079 and 29-4080. As a result of settlement, the quantity and place of use remarks in water right no. 29-377 have changed. The parties and IDWR agree and stipulate that the elements of water right no. 29-377 should be described per the attached. The parties and IDWR indicate their concurrence by their signatures below and by initialing each of the attached pages.

CLAIMANT/ OBJECTOR:

Maurice Toler 7-22-04
Maurice Toler Date

CLAIMANT/ OBJECTOR:

Helen Toler 7/22/04
Helen Toler Date

IDWR CONCURRENCE:

Ernie Carlsen July 27, 2004
Ernie Carlsen Date
Adjudication Supervisor, IDWR

Candice M. McHugh 7/20/04
Candice M. McHugh Date
Attorney for IDWR

CERTIFICATE OF MAILING

I certify that on July 27, 2004 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:

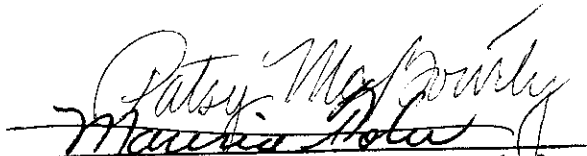
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, ID 83720-0098

IDWR Document Repository
P.O. Box 83720
Boise, ID 83720-0098

Maurice and Helen Toler
231 E Glover Rd.
Armo, ID 83214


Signature of person or attorney mailing the form

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 29-377

NAME AND ADDRESS:

HELEN TOLER
231 E GLOVER RD
ARIMO ID 83214

MAURICE A TOLER
231 E GLOVER RD
ARIMO ID 83214

SOURCE:

Source:
GARDEN CREEK

Tributary:
MARSH CREEK

QUANTITY:

1.000 CFS

0.000 AFY

Use of the rights listed below is limited to a total combined diversion rate of 3.50 cfs.
Combined Right Nos.: 29-376, 29-377, 29-389, 29-390, 29-4079 and 29-4080.

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 2.34 CFS, COMBINED RIGHT NOS.: 29-376,
29-377, 29-389, AND 29-390.

PRIORITY DATE:

05/01/1904

POINT OF DIVERSION:

T10S R36E S7 SWNWNE Within BANNOCK County
T10S R36E S11 SENWNW Within BANNOCK County
T10S R36E S11 SWSNW Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

IRRIGATION

04/01 10/31

1.000 CFS

PLACE OF USE:

IRRIGATION

within BANNOCK County

T10S R36E S02 SWNE 7.3
T10S R36E S02 SENW 1.4
T10S R36E S02 NESW 23.0
T10S R36E S02 SWSW 5.4
T10S R36E S02 SESW 19.0
T10S R36E S02 NWSE 3.8
T10S R36E S11 NENW 4.4
T10S R36E S11 NWNW 15.0
T10S R36E S11 SWNW 26.0
T10S R36E S11 SENW 1.9
T10S R36E S11 NWSW 10.0

117.2 ACRES TOTAL

SF5 -Water Right No.: 29-377 Uncontested Overlap of 29-4079 and 29-4080)

Page

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

Use of the rights listed below is limited to the irrigation of a combined total of 117.2 acres in a single irrigation season. Combined Right Nos.: 29-376, 29-377, 29-389, 29-390, 29-4079 and 29-4080.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 117.2 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-376, 29-377, 29-389, AND 29-390. *MD*

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 50.0 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. *H.T.*

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

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. *SM*

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Use of this right is combined with water from Garden Creek Irrigation Co.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 29-376, 29-377, 29-389, AND 29-390.