

**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.: 61-00303B
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)
)
)

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.

PS DS MB

Mary Batruel 9-19-2002
Mary Batruel Date

Paul V Batruel 9-19-2002
Paul Batruel Date

Carlene Smith 9-19-02
Carlene Smith 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:

Matt J. Howard 9-19-02
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

Charles L. Honsinger 09/19/02
Charles L. Honsinger Date
Of Attorneys for Carlene Smith

Candice McHugh Date
Idaho Deputy Attorney General, IDWR

POB 9/19/02

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

RIGHT NUMBER: 61-303B

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

SOURCE: LITTLE CANYON CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 0.2 CFS

Fwp Jm

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

PRIORITY DATE: 05/02/1892

POINT OF DIVERSION: T05S R10E S8 NENWSW Within ELMORE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03-15 11-15	0.20 CFS
STOCKWATER	01-01 12-31	0.02 CFS

PLACE OF USE:

IRRIGATION Within ELMORE County				
T05S R10E S18	SENW	28	T05S R10E S18	NESE 17
T05S R10E S18	NWSE	40		

STOCKWATER Use same as IRRIGATION

85 ACRES TOTAL

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 10
ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A
SINGLE IRRIGATION SEASON.

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.

PD [Signature] 443

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 - decree

*Fwp
J.E.*

PB *Q* *11/1*

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:

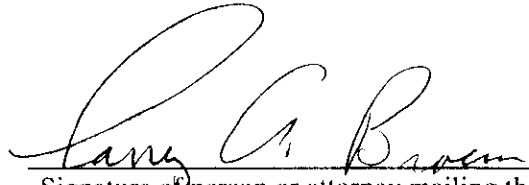
Larry Brown
U. S. Department of Justice
550 W. Fort Street, MSC 033
Boise, ID 83724
Of Attorneys for U. S. BLM

Charles L. Honsinger
Ringert Clark, Chtd
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Of Attorneys for Carlene Smith

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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

6-03

ES

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