

**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 | ) |                                 |
|                | ) | <b>STANDARD FORM 5</b>          |
|                | ) |                                 |
|                | ) | <b>STIPULATED ELEMENTS OF A</b> |
|                | ) | <b>WATER RIGHT</b>              |

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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 STORAGESTOCKWATER from storage same as  
IRRIGATION from storageDOMESTIC 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:

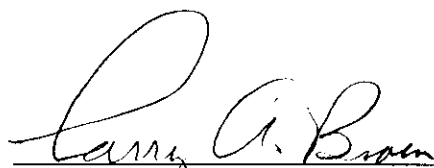
Larry Brown  
U. S. Department of Justice  
550 W. Fort Street, MSC 033  
Boise, ID 83724  
Of Attorneys for U. S. BLM

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