

MATT J. HOWARD
Attorney at Law
P. O. Box 190012
Boise, Idaho 83719
(208) 333-0622
(208) 333-8409 (facsimile)
ISB 5115

Attorney for Mary Batruel, Paul Batruel, and Batruel Dairy ("Batruel")

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

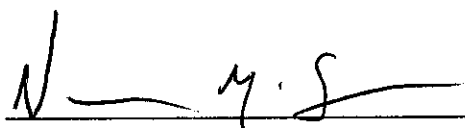
In Re SRBA	)	Subcase Nos. 61-00293B and 61-11921
	)	
Case No. 39576	)	
	)	
	)	STIPULATION TO RESOLVE OBJECTIONS
	)	
	)	
	)	
	)	
	)	
	)	

COMES NOW, Paul Batruel, Mary Batruel and Batruel Dairy ("Claimant-objectors" or "Batruels") and Roger L. Jones, RJT Farming, Inc., Idaho Fresh-Pak, Inc., ("Respondents") parties to the above-captioned subcases (herein jointly referred to as "the parties"), by and through their attorneys of record, and hereby stipulate to the resolution of their respective objections/responses as follows:

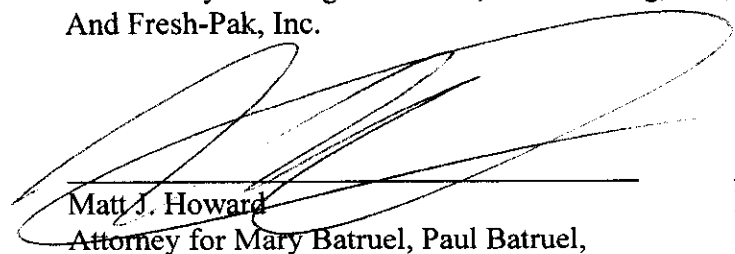
1. The parties agree that they will not oppose the decree of water right nos. 61-293B

and 61-11921 as set forth in the Standard Forms 5 attached hereto as Exhibit A, and incorporated herein in their entirety by reference.

2. The parties agree that they will make good faith efforts to obtain the signatures and concurrences of third parties and the Idaho Department of Water Resources (IDWR), as the case may be, on the Standard Forms 5 referenced in paragraph 1, above. However, in the event, the parties are unable to obtain the required signatures and concurrences and the further legal action is required against such third parties and/or IDWR, this stipulation shall remain binding on the parties.
3. The parties agree that the priority dates for water right nos. 61-293B, 61-293C, and 61-293D should have the same priority date and be of equal priority. The parties further agree that the priority date for water right no. 61-11921 should have a priority date of at least one day senior to water rights nos. 61-293B, 61-293C, and 61-293D. The parties agree that the SRBA partial decrees entered for 61-293B, 61-293C, 61-293D, and 61-11921 should contain the relative priority dates as set forth in this paragraph.


Norman M. Semanko
Of Attorneys for Roger L. Jones, RJT Farming, Inc.,
And Fresh-Pak, Inc.

9-24-02
Date


Matt J. Howard
Attorney for Mary Batruel, Paul Batruel,
and Batruel Dairy

9-19-02
Date

CERTIFICATE OF SERVICE

The undersigned certifies that on the 15 day of October 2002, a true and correct copy of the within document was sent to the following person(s) by U.S. Mail:

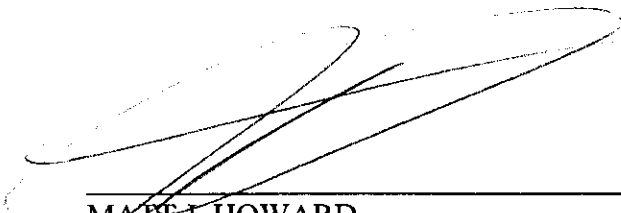
Larry Brown
U. S. Department of Justice
550 W. Fort Street, MSC 033
Boise, ID 83724
Of Attorneys for U. S. BLM

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



MATT J. HOWARD

EXHIBIT A

RB OS MB

Mary Batruel 9-19-2002
Mary Batruel Date

Paul Batruel 9-19-02
Paul Batruel Date

Roger L. Jones Oct. 4, 2002
Roger L. Jones Date
Individually and on behalf of RJT Farming, Inc.

Carlene Smith 9-19-02
Carlene Smith Date

Ray Clement 10-02-02
Idaho Fresh-Pak, Inc. Date
By: Ray Clement, President

U.S. Bureau of Land Management Date
By:

IDWR Concurrence Date

APPROVED AS TO FORM BY:

Matt J. Howard 9-17-02
Matt J. Howard Date
Attorney for Mary Batruel, Paul Batruel,
and Batruel Dairy

N. M. Semanko 9-24-02
Norman M. Semanko Date
Of Attorneys for Roger L. Jones and
Fresh-Pak, Inc.

Charles L. Honsinger 09/14/02
Charles L. Honsinger Date
Of Attorneys for Carlene Smith

Larry A. Brown Date
Of Attorneys for U. S. BLM

Candice McHugh Date
Idaho Deputy Attorney General, IDWR

Handwritten initials: PB, G, MB

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

RIGHT NUMBER: 61-11921

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

SOURCE: SAND SPRING GULCH TRIBUTARY: LITTLE CANYON CREEK

QUANTITY: 1.24 CFS

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

PRIORITY DATE: 12/31/1897

POINT OF DIVERSION: T05S R09E S12 SESE Within ELMORE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03-15 11-15	1.16 CFS
STOCKWATER	01-01 12-31	0.02 CFS
DOMESTIC	01-01 12-31	0.06 CFS

PLACE OF USE:

IRRIGATION Within ELMORE County			
T05S R09E S13	NWNE	3.0	T05S R09E S13 SWNE 24.0
T05S R09E S13 LT2	SENE	16.0	T05S R09E S13 NENW 19.5
T05S R09E S13	NWNW	1.5	T05S R09E S13 SWNW 1.0
T05S R09E S13	SENW	19.0	T05S R09E S13 NESE 39.0
T05S R09E S13	NWSE	16.0	T05S R09E S13 SESE 13.0
T05S R10E S18	SENW	30.0	T05S R10E S18 LT3 NWSW 39.0
T05S R10E S18 LT4	SWSW	38.0	T05S R10E S18 NESE 17.0
T05S R10E S18	NWSE	40.0	
316 ACRES TOTAL			

STOCKWATER Use same as IRRIGATION

DOMESTIC Use			
T05S R09E S13	SWNE	T05S R09E S13	LOT 2 SENE
T05S R10E S18	LOT 3 NWSW		

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 58
ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A
SINGLE IRRIGATION SEASON.

USE OF THIS RIGHT WITH RIGHT NOS. 61-00293B, 61-
00303B, 61-00304B, 61-00308, 61-04132, 61-10834 IS
LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 328
ACRES 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.

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

THE QUANTITY OF WATER FOR STOCKWATER USE SHALL BE MEASURED AT THE POINT WHERE THE WATER ENTERS THE DIVERSION POND LOCATED IN T05S R09E S13 SENE

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

RE R.H.J.
NMS
PB MB
CS

CERTIFICATE OF SERVICE

I certify that on _____, 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

PB MB
CS

In Re SRBA	)	Subcase No.: <u>61-00293B</u>
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

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

Roger L. Jones Oct 9 2002
Roger L. Jones Date
Individually and on behalf of RJT Farming, Inc.

Carlene Smith 9-19-02
Carlene Smith Date

Ray Clement 10-02-02
Idaho Fresh-Pak, Inc. Date
By: Ray Clement, President

U.S. Bureau of Land Management Date
By:

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

Norman M. Semanko 9-24-02
Norman M. Semanko Date
Of Attorneys for Roger L. Jones and
Fresh-Pak, Inc.

Charles L. Honsinger 09/14/02
Charles L. Honsinger Date
Of Attorneys for Carlene Smith

Larry A. Brown Date
Of Attorneys for U. S. BLM

Candice McHugh Date
Idaho Deputy Attorney General, IDWR

MB
PB

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

RIGHT NUMBER: 61-293B

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

SOURCE: SAND SPRINGS GULCH

TRIBUTARY: LITTLE CANYON CREEK

QUANTITY: 0.575 CFS

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

PRIORITY DATE: 01/01/1898

POINT OF DIVERSION:

T05S R09E S12 SESE Within ELMORE County

T05S R10E S18 SWNW Lot 2 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	0.575 CFS
STOCKWATER	01/01 12/31	0.575 CFS

PLACE OF USE:

IRRIGATION Within ELMORE County

T05S R09E S13	NWNE	3.0	T05S R09E S13	SWNE	24.0	
T05S R09E S13	LT2	9.0	T05S R09E S13	NENW	19.5	
T05S R09E S13	NWNW	1.5	T05S R09E S13	SWNW	1.0	
T05S R09E S13	SENE	19.0	T05S R09E S13	NESE	36.0	
T05S R09E S13	NWSE	16.0	T05S R09E S13	SESE	13.0	
T05S R10E S18	SENE	28.0	T05S R10E S18	LT3	NWSW	30.0
T05S R10E S18	LT4	38.0	T05S R10E S18	NESE	17.0	
T05S R10E S18	NWSE	40.0				

295 ACRES TOTAL

STOCKWATER Use same as IRRIGATION

USE OF THIS RIGHT WITH RIGHT NOS. 61-00303B, 61-00304B, 61-00308, 61-04132, 61-10834, 61-11921 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 328 ACRES 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.

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.

STANDARD FORM 5

R.A.
RC NMS
RB
CS
MB

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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

PB MB
B