

**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.: 45-77S
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STANDARD FORM 5

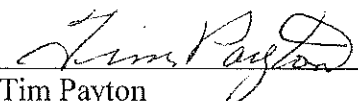
**STIPULATED ELEMENTS OF A
WATER RIGHT**

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

OBJECTOR:

 3-13-06
Tim Payton Date
President, Birch Creek Water Users Association

IDWR CONCURRENCE:

 2/23/06
Jeanie Robertson Date
Sr. Water Resource Agent

 2/14/06
Chris Bromley Date
Deputy Attorney General
Attorney for IDWR

01/03/2006

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

RIGHT NUMBER: 45-77S

NAME AND ADDRESS: JOSEPH R WHITELEY
240 N CENTER
OAKLEY ID 83346

MARY J WHITELEY
240 N CENTER
OAKLEY ID 83346

SOURCE: BIRCH CREEK

TRIBUTARY: GOOSE CREEK

QUANTITY: 0.016 CFS

PRIORITY DATE: 03/01/1875

POINT OF
DIVERSION: T14S R22E S14 SESESE Within CASSIA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

3/15 11/15

0.016 CFS

2/28 11/15

PLACE OF USE: IRRIGATION Within CASSIA County

T13S R22E S33 SWSE 1.00

1 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 1 ACRE IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 45-77S, 45-78K, & 45-79L.

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

The operation and use of this water right is also subject to the terms and conditions of the Water Rotation Agreement ("Agreement") entered into by certain users on 10 September, 1992. The Agreement was filed and recorded in the office of the Cassia County Recorder on 27 May, 1993 as Instrument No.: 224804; the provisions of such Agreement to apply fully to 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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

PROPERTY IS ALSO KNOWN AS PART OF LOT 2, BLK 14, OAKLEY
TOWNSITE. PARCEL #RPOK002014002B.

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

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 45-77J.

USE OF THIS RIGHT IS COMBINED WITH WATER FROM OAKLEY CANAL CO.

CERTIFICATE OF SERVICE

I certify that on April 12, 2006, I caused to be served true and correct copies of this Standard Form 5, to the following persons, in the manner indicated 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, ID 83303-2707

☐ Overnight Mail
☐ Regular Mail
☒ Hand-Delivered
☐ Facsimile

2. Copies to:

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

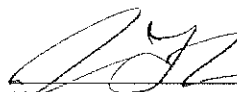
☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Tim Payton
President, Birch Creek Waterusers
c/o Travis Thompson
113 Main Avenue West, Suite 303
Twin Falls, ID 83301-6167

☐ Overnight Mail
☐ Regular Mail
☒ Hand-Delivered
☐ Facsimile

Joseph R Whiteley
Mary J Whiteley
240 N Center
Oakley, ID 83346

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile



Signature of person or attorney mailing the form