

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. 22-7265A
	)	
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 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.

CLAIMANT:

M & B Enterprises LTD Partnership

 Partner 8-9-06
Date

OBJECTOR(s):

Larry A. Brown 8/17/06
Larry A. Brown, USDOJ Date
Attorney for BLM *JB*

David W. Gehlert 8/17/06
David W. Gehlert, USDOJ Date
Attorney for BOR

IDWR Concurrence:

Ernest Carlsen 8-17-06
Ernest Carlsen Date
IDWR Adjudication Supervisor

Candice McHugh 8/17/06
Candice McHugh Date
Deputy Attorney General
Attorney for IDWR

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

RIGHT NUMBER: 22-7265A

NAME AND ADDRESS:

M & B ENTERPRISES LTD PARTNERSHIP
PO BOX 326
ST ANTONY ID 83445

SOURCE:

Source:

Tributary:

GROUND WATER

QUANTITY:

3.410 CFS

1,447.440 AFY

The rights listed below are limited to a total combined diversion rate of 56.36 cfs. Combined Right Nos.: 22-7205, 22-7210, 22-7265A, 22-7265B, 22-7313A, 22-7313B, and 22-7314.

Use of this right with Right Nos. 22-7205, 22-7265A, 22-7265B, 22-7270, and 22-7314 are limited to a total combined (re)diversion capacity of 24.5 cfs and to a total combined annual diversion volume of 9590.7 AF.

~~Use of this right with Right Nos. 22-7205, 22-7265A, 22-7265B, 22-7270, and 22-7314 are limited to a total combined (re)diversion capacity of 24.5 cfs and to a total combined annual diversion volume of 9,741.6 AF.~~

PRIORITY DATE:

11/16/1977

POINT OF DIVERSION:

T07N R41E S29 SESWNE
Within FREMONT County

T07N R41E S29 NWNESE Injection
Within FREMONT County

T07N R42E S23 SENWSE Rediversion
Within FREMONT County

Water diverted under this right is exchanged by injecting water diverted under this right into Teton River at the point of injection described above, and diverting an equal amount from Teton River at the point of rediversion described above. Three exchange wells are located at or near the point of diversion described above.

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

IRRIGATION

04/15 10/15

3.410 CFS

1,447.44 AFY

The use of water for irrigation under this right may begin as early as April 1 and may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water before April 15 and after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE:

IRRIGATION within FREMONT County

T07N R42E S02 SWSW 4.0

T07N R42E S03 SESE 24.0

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

T07N R42E S10 NENE 20.0
T07N R42E S10 NWNE 31.0
T07N R42E S10 SWNE 30.0
T07N R42E S10 SENE 37.0
T07N R42E S10 NENW 20.0
T07N R42E S10 SENW 36.0
T07N R42E S10 NESW 33.0
T07N R42E S10 NWSW 30.0
T07N R42E S10 NESE 38.0
T07N R42E S10 NWSE 38.0
T07N R42E S10 SWSE 25.0
T07N R42E S10 SESE 37.0
T07N R42E S11 NENW 0.3
T07N R42E S11 NWNW 34.0
T07N R42E S11 SWNW 38.0
T07N R42E S11 SENW 0.2
T07N R42E S11 NESW 1.6
T07N R42E S11 NWSW 30.0
T07N R42E S11 SWSW 40.0
T07N R42E S11 SESW 40.0
T07N R42E S11 SWSE 40.0
T07N R42E S11 SESE 30.0
T07N R42E S12 SWSW 5.5
T07N R42E S12 SESW 0.6
T07N R42E S12 SWSE 2.4
T07N R42E S12 SESE 1.6
T07N R42E S13 NENE 37.0
T07N R42E S13 NWNE 39.0
T07N R42E S13 SWNE 33.0
T07N R42E S13 SENE 36.0
T07N R42E S13 NENW 34.0
T07N R42E S13 NWNW 38.0
T07N R42E S13 SWNW 34.0
T07N R42E S13 SENW 29.0
T07N R42E S13 NESW 40.0
T07N R42E S13 NWSW 39.0
T07N R42E S13 SWSW 38.0
T07N R42E S13 SESW 39.0
T07N R42E S13 NESE 35.0
T07N R42E S13 NWSE 40.0
T07N R42E S13 SWSE 39.0
T07N R42E S13 SESE 39.0
T07N R42E S14 NENE 35.0
T07N R42E S14 NWNE 40.0
T07N R42E S14 SWNE 30.0
T07N R42E S14 SENE 28.0
T07N R42E S14 NENW 34.0

~~T07N R42E S10 NWSE 39.0~~

~~T07N R42E S10 SWSE 26.0~~

N/21
Emc
DP
JA
MB
SM

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

T07N R42E S14 NWNW 35.0
T07N R42E S14 SWNW 40.0
T07N R42E S14 SENW 37.0
T07N R42E S14 NESW 40.0
T07N R42E S14 NWSW 37.0
T07N R42E S14 SWSW 2.7
T07N R42E S14 SESW 29.0
T07N R42E S14 NESE 26.0
T07N R42E S14 NWSE 39.0
T07N R42E S14 SWSE 40.0
T07N R42E S14 SESE 40.0
T07N R42E S15 NENE 23.0

T07N R42E S15 SWNE 19.0
T07N R42E S15 SENE 39.0
T07N R42E S15 NESE 19.0
T07N R42E S15 NWSE 18.0
T07N R42E S23 NENE 40.0
T07N R42E S23 NWNE 26.0
T07N R42E S23 SWNE 1.1
T07N R42E S23 SENE 25.0
T07N R42E S23 NENW 3.4
T07N R42E S24 NENE 40.0
T07N R42E S24 NWNE 40.0
T07N R42E S24 SWNE 39.0
T07N R42E S24 SENE 40.0
T07N R42E S24 NENW 40.0
T07N R42E S24 NWNW 39.0
T07N R42E S24 SWNW 36.0
T07N R42E S24 SENW 37.0

T07N R42E S24 NESE 20.0

T07N R42E S24 NWSE 8.2
T07N R43E S18 Lot 4 SWSW 0.7
T07N R43E S18 SESW 0.4
T07N R43E S19 NENE 40.0
T07N R43E S19 NWNE 40.0
T07N R43E S19 SWNE 40.0
T07N R43E S19 SENE 40.0
T07N R43E S19 NENW 40.0
T07N R43E S19 Lot 1 NWNW 41.0
T07N R43E S19 Lot 2 SWNW 41.0
T07N R43E S19 SENW 35.0
T07N R43E S19 NESW 2.2
T07N R43E S19 Lot 3 NWSW 21.0
T07N R43E S19 NESE 27.0

~~T07N R42E S15 NENE 26.0~~

~~T07N R42E S15 NWNE 1.2~~

~~T07N R42E S15 SWNE 24.0~~

~~T07N R42E S15 NWSE 19.0~~

~~T07N R42E S23 SWNE 2.7~~

~~T07N R42E S23 SENE 30.0~~

~~T07N R42E S23 NENW 3.6~~

~~T07N R42E S24 NESW 1.2~~

~~T07N R42E S24 NWSW 0.3~~

~~T07N R42E S24 NESE 25.0~~

~~T07N R42E S24 NWSE 9.7~~

~~T07N R43E S19 SENW 37.0~~

~~T07N R43E S19 NESW 4.3~~

~~T07N R43E S19 Lot 3 NWSW 25.0~~

~~T07N R43E S19 NESE 30.0~~

DP 19
JA
EMC
8m²
AB

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

T07N R43E S19 NWSE 27.0

T07N R43E S19 SWSE 3.3

~~T07N R43E S19 NWSE 30.0~~

~~T07N R43E S19 SWSE 4.6~~

~~T07N R43E S19 SESE 0.7~~

2740.2 ACRES TOTAL

~~2783.3 ACRES TOTAL~~

Right Nos. 22-7205, 22-7265A, 22-7265B, 22-7270, and 22-7314 are limited to the irrigation of a combined total of 2740.2 acres in a single irrigation season.

Place of use does not include federal public lands unless authorized in writing by the United States Bureau of Reclamation.

This right is limited to the irrigation of 620 acres within the place of use described Above in a single irrigation season.

~~Right Nos. 22-7205, 22-7265A, 22-7265B, 22-7270, and 22-7314 are limited to the irrigation of a combined total of 2783.3 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.

Totalizing measuring devices shall be maintained at the exchange wells and redirection pumps from the Teton River.

This right is subject to regulation by the watermaster of Water District No 01.

No demand on upstream prior rights or existing prior exchanges can be made and no interference with prior rights located between the redirection pump and the exchange wells will be allowed even if the exchange wells are pumping water into the Teton River.

The rate of redirection from the Teton River shall not exceed the rate of injection into the Teton River from the exchange wells.

The exchange wells must inject water into the Teton River whenever water is being diverted from the river under this license, and the injection must continue after the diversion from the Teton River ceases until the water not diverted reaches the point of injection.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Exchange well diversion capacity is owned half by Schwendiman Farms and half by M & B Enterprises for a total capacity of 56.36 cfs.

Right Nos. 22-7205, 22-7210, 22-7265A, 22-7265B, 22-7313A, 22-7313B, and 22-7314 are also diverted through points of diversion and injection described above.

Right Nos. 22-7205, 22-7265A, 22-7265B, 22-7270, and 22-7314 are also diverted through point of redirection described above.

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

CERTIFICATE OF MAILING

I certify that on August 17, 2006, 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

via hand delivery

M & B ENTERPRISES LTD
PARTNERSHIP
PO BOX 326
ST ANTONY, ID 83445

via hand delivery

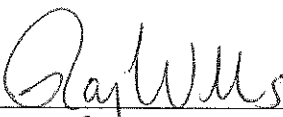
UNITED STATES OF AMERICA
USDI BUREAU OF RECLAMATION

via hand delivery

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

via hand delivery



Signature of person or attorney mailing the form