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DEPARTMENT OF  
WATER RESOURCES

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: 37-238A  
)  
)

Case No. 39576

) STIPULATION TO RESOLVE  
) OBJECTION  
)  
)  
)  
)  
)

\_\_\_\_\_ )  
This form is used to report the stipulated elements of one water right acquired under state law. 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; and 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 claimants (Oppio Family Limited Partnership), the objectors (Gary and Helen DeMoss) and IDWR agree and stipulate that this **stipulation resolves the objection by Gary and Helen DeMoss to 37-238A.**

The following remark will be included with the priority date element for Gary and Helen DeMoss's water rights 37-856, 37-2778, 37-2780, and 37-7754:

Pursuant to a call in times of scarcity, the diversion to storage from  
November 1 to March 31 is not subject to curtailment by **Water Right  
No. 37-238A.**

**The parties realize that the remark on the four DeMoss rights that subordinates 37-238A may be expanded to include the subordination of other water rights, prior to the entry of the Special Masters Report and Recommendation for 37-856, 37-2778, 37-2780, and 37-7754.**

The parties and IDWR have further indicated their concurrence by their signatures below and by initialing each of the attached pages.

CLAIMANT:

OBJECTOR:

By Alan Oppio 9/14/07 By Josephine P. Beeman 12 Sept 07  
ALAN OPPIO Date Josephine P. Beeman Date  
Oppio Family Limited Partnership Beeman & Associates, P.C.  
Attorneys for Gary A. & Helen DeMoss

IDWR CONCURRENCE:

Carter Fritschle 9-26-07 Nicholas Spencer 9-26-07  
Carter Fritschle Date Nicholas Spencer Date  
Adjudication Supervisor, IDWR Attorney for IDWR

## CERTIFICATE OF MAILING

I certify that on September 18, 2007, 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

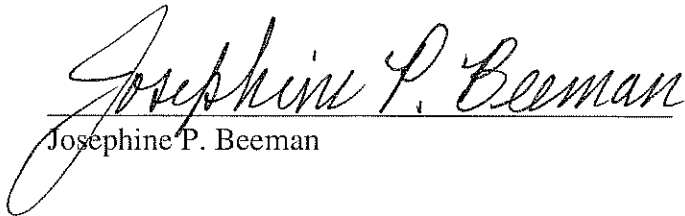
2. Copies to:

David J. Barber  
Natural Resources Division  
Office of the Attorney General  
State of Idaho  
P.O. Box 44449  
Boise, ID 83711-4449

Oppio Family Limited Partnership  
P. O. Box 381  
Gooding, ID 83330

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

James Tucker  
Idaho Power Co.  
P. O. Box 70  
Boise, ID 83701

  
\_\_\_\_\_  
Josephine P. Beeman

11/01/2005

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

RIGHT NUMBER: 37-238A

NAME AND ADDRESS: OPPIO FAMILY LIMITED PARTNERSHIP  
PO BOX 381  
GOODING ID 83330

SOURCE: MALAD RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 2.000 CFS

Right nos. 37-238A, 37-239A, 37-240A and 37-4407 are limited to a total combined diversion rate of 6.00 cfs.

PRIORITY DATE: 04/15/1883

POINT OF  
DIVERSION: T06S R14E S16 NWSE Within GOODING County

PURPOSE AND  
PERIOD OF USE:

| <u>PURPOSE OF USE</u> | <u>PERIOD OF USE</u> | <u>QUANTITY</u> |
|-----------------------|----------------------|-----------------|
| IRRIGATION            | 03/15 11/15          | 2.000 CFS       |

PLACE OF USE: IRRIGATION Within GOODING County

|               |      |      |               |      |      |
|---------------|------|------|---------------|------|------|
| T06S R14E S16 | SESW | 6.0  | T06S R14E S16 | SWSE | 28.0 |
| T06S R14E S21 | NENE | 7.0  | T06S R14E S21 | NWNE | 34.0 |
| T06S R14E S21 | SWNE | 30.0 | T06S R14E S21 | SENE | 12.0 |
| T06S R14E S21 | NENW | 2.5  | T06S R14E S21 | NESE | 4.0  |
| T06S R14E S21 | NWSE | 4.0  |               |      |      |

127.5 ACRES TOTAL

Right nos. 37-238A, 37-239A, 37-240A and 37-4407 are limited to the irrigation of a combined total of 291.5 acres in a single irrigation season.

Right nos. 37-238A, 37-239A and 37-240A are limited to the irrigation of a combined total of 127.5 acres in a single irrigation season.

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

Delivery of this right is subject to the water exchange provisions contained in Bureau of Reclamation contract no. 14-06-W-73, executed October 14, 1954, between the United States of America and American Falls Reservoir District No. 2, as supplemented by Bureau of Reclamation contract no. 14-06-100-6031, executed June 1, 1962, between and among the United States of America, American Falls Reservoir District No. 2, and the Big Wood Canal Company.

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.

11/01/2005

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

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EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Use of this right is combined with water from American Falls Reservoir Dist.  
No. 2.

Water is delivered through the Upper Frost Ditch.

QU

JPB

CA  
NBS