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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: 37-4091
)
)

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 claimant (Justice Ditch), the objectors (Gary and Helen DeMoss) and IDWR agree and stipulate that this **stipulation resolves the objection by Gary and Helen DeMoss to 37-4091.**

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. 37-4091.**

The parties realize that the remark on the four DeMoss rights that subordinates 37-4091 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:

CLAIMANT:

<u>Frank C. Erwin</u>	<u>9-18-07</u>	<u>Peggy Erwin</u>	<u>9-18-07</u>
Frank C. Erwin	Date	Peggy Erwin	Date
Justice Ditch Co.		Justice Ditch Co.	

CLAIMANT

CLAIMANT

<u>Tom Anderson</u>	<u>9-18-07</u>	<u>Michael C. Vos</u>	<u>9-18-07</u>
Tom Anderson	Date	Michael Vos	Date
Justice Ditch Co.		Justice Ditch Co.	

CLAIMANT:

OBJECTOR:

<u>Susan Vos</u>	<u>9-18-07</u>
Susan Vos	Date
Justice Ditch Co.	

By <u>Josephine P. Beeman</u>	<u>12 Sep 2007</u>
Josephine P. Beeman	Date
Beeman & Associates, P.C.	
Attorneys for Gary A. & Helen DeMoss	

CLAIMANT:

By <u>David J. Barber</u>	<u>9/26/2007</u>
David J. Barber	Date
Deputy Attorney General, State of Idaho	
Department of Parks & Recreation	
Justice Ditch Co.	

IDWR CONCURRENCE:

<u>Carter Fritschle</u>	<u>9-26-07</u>	<u>Nicholas Spencer</u>	<u>9-26-07</u>
Carter Fritschle	Date	Nicholas Spencer	Date
Adjudication Supervisor, IDWR		Attorney for IDWR	

CERTIFICATE OF MAILING

I certify that on September 28, 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:

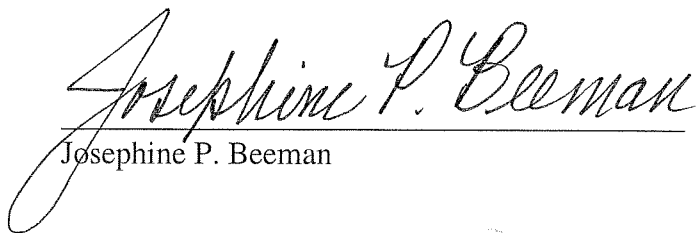
David J. Barber
Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

Justice Ditch Co.
c/o Frank Erwin
711 East Avenue North
Hagerman, Idaho 83332

Michael and Susan Vos
P. O. Box 36
Bliss, ID 83314

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

Tom Anderson
2399 S 1100 E
Hagerman, ID 83332



Josephine P. Beeman

12/01/2006

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

RIGHT NUMBER: 37-4091

NAME AND ADDRESS: JUSTICE DITCH CO
C/O FRANK ERWIN
2628 S 975 E
HAGERMAN ID 83332

SOURCE: MALAD RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 9.100 CFS

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

The appropriator is entitled to the quantity of water described for stockwater purposes at a point of measurement where the delivery ditch enters the place of use described.

PRIORITY DATE: 04/01/1934

POINT OF DIVERSION:

T06S R14E S30 SESW Within GOODING County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.020 CFS
IRRIGATION	03/15 11/15	9.100 CFS

PLACE OF USE: IRRIGATION in GOODING County

T06S R13E S35	NENE	15.00	T06S R13E S35	SWNE	25.00
T06S R13E S35	SENE	40.00	T06S R13E S35	SENW	14.00
T06S R13E S35	NESW	23.00	T06S R13E S35	NESE	40.00
T06S R13E S35	NWSE	40.00	T06S R13E S35	SWSE	33.00
T06S R13E S35	SESE	40.00	T06S R13E S36	NENE	11.00
T06S R13E S36	NWNE	7.80	T06S R13E S36	NENW	19.00
T06S R13E S36	NWNW	20.00	T06S R13E S36	SWSW	17.00
T07S R13E S01 Lot 2	SWNE	33.00	T07S R13E S01 Lot 1	SENE	33.00

STOCKWATER same as IRRIGATION

410.8 ACRES TOTAL

Right nos. 37-1160, 37-1175 and 37-4091 are limited to the irrigation of a combined total of 410.8 acres in a single irrigation season.

Handwritten signatures and initials:
2/B
NBS
JPB
TA
mc
se

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

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

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.

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

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

Full
OK
JPB
TA
mi
SL
DPB
CA
NBS