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DEPARTMENT OF
WATER RESOURCES

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SPECK & AANESTAD

A PROFESSIONAL CORPORATION

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February 11, 2008

Special Master Brigitte Bilyeu
SRBA District Court
P. O. Box 2707
Twin Falls, Idaho 83303-2707

Re: Black Butte Hills LLC;
Subcases Nos.: 37-4099, 37-4383, 37-4384 and 37-4386

Dear Special Master Bilyeu:

Pursuant to the discussions on the record at the continued pretrial conference this morning I am enclosing an original and one copy each of a Standard Form 5 for the above-referenced subcases signed by me on behalf of the claimant/objector, Black Butte Hills LLC, and Nick Spencer and Carter Fritschle on behalf of the Idaho Department of Water Resources. Please have your clerk receipt date-stamp the enclosed copies and return them to me in the postage prepaid, self-addressed envelope I have included for that purpose. Thank you once again for your patience and cooperation in allowing us to resolve the issues relating to these water rights prior to trial.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: _____

James P. Speck

JPS/jef

Enclosures

cc: Nick Spencer (w/encl.)
Rod Gonsales (w/encl.)
Greg Vik (w/encl.)

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

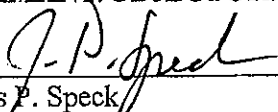
In Re SRBA	)	Subcase No.: 37-4099
	)	(Formerly Disallowed)
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

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.

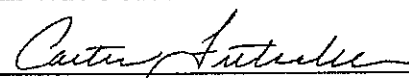
The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions 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.

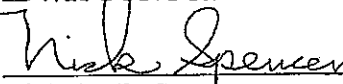
CLAIMANT/OBJECTOR:

 2-11-08
James P. Speck Date
Attorney for Black Butte Hills LLC

IDWR CONCURRENCE:

 2-5-08
Carter Fritschle Date
Section Manager Adjudication Bureau

IDWR CONCURRENCE:

 2-5-08
Nicholas B. Spencer Date
Deputy Attorney General
Attorney for IDWR

02/11/2008

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

RIGHT NUMBER: 37-4099

NAME AND ADDRESS: BLACK BUTTE HILLS LLC
PO BOX 1607
BELLEVUE WA 98009

SOURCE: WASTE WATER

TRIBUTARY: THORN CREEK

QUANTITY: 2.000 CFS

PRIORITY DATE: 04/01/1953

POINT OF DIVERSION:

T04S R16E S31 SENE Within GOODING County

T04S R16E S31 SENE 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 in GOODING County

T04S R16E S31	SWNE	21.70	T04S R16E S31	SENE	17.70
T04S R16E S31	SENE	3.30			

42.7 ACRES TOTAL

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

This right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

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 - Beneficial Use

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

Use of this right is combined with water from Big Wood Canal Co.

CERTIFICATE OF SERVICE

I certify that on February 11, 2008, 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

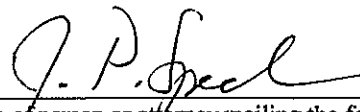
2. Copies to:

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

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

James P. Speck
Speck & Aanestad
P.O. Box 987
Ketchum, ID 83340

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



Signature of person or attorney mailing the form