

DEPARTMENT OF  
WATER RESOURCES

OCT 1 - 2008

9:00 A.M.

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. 37-390**

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**

Flat Top Sheep Co.

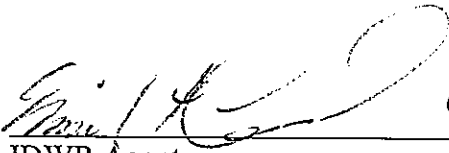
John T. Conway Pres  
Pro Se 9/30/2008 Date

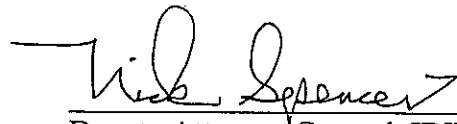
## OBJECTOR

United States on behalf of  
Bureau of Land Management

David Negri *9/18/08*  
 David Negri *FWP* Date  
 Attorney, U.S. Department of Justice

**IDWR Concurrence:**

  
IDWR Agent 9/17/08  
Date

  
Deputy Attorney General, IDWR 9-17-08  
Date

**CERTIFICATE OF MAILING**

I certify that on 10/3, 2008, 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:

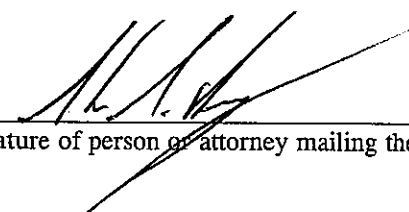
Clerk of the District Court  
Snake River Basin Adjudication  
253 Third Avenue North  
P. O. Box 2707  
Twin Falls, Idaho 83303-2707

2. Copies to:

UNITED STATES OF AMERICA  
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

FLAT TOP SHEEP CO  
PO BOX 88  
CAREY, ID 83320

  
\_\_\_\_\_  
Signature of person or attorney mailing the form

09/15/2008

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

RIGHT NUMBER: 37-390

NAME AND ADDRESS: FLAT TOP SHEEP CO  
PO BOX 88  
CAREY ID 83320

SOURCE: FRIEDMAN CREEK

TRIBUTARY: SOUTH FORK MULDOON  
CREEK

QUANTITY: 0.600 CFS

PRIORITY DATE: 06/30/1884

POINT OF  
DIVERSION:

T02N R21E S12 SESWSE Within BLAINE County  
T02N R21E S14 NENESE Within BLAINE County

PURPOSE AND  
PERIOD OF USE:

| <u>PURPOSE OF USE</u> | <u>PERIOD OF USE</u> | <u>QUANTITY</u> |
|-----------------------|----------------------|-----------------|
| IRRIGATION            | 04/15 10/31          | 0.600 CFS       |

PLACE OF USE: IRRIGATION in BLAINE CountyPLACE OF USE: IRRIGATION in BLAINE County

|                          |                 |                 |               |      |       |
|--------------------------|-----------------|-----------------|---------------|------|-------|
| T02N R21E S13            | NENW            | 26.50           | T02N R21E S13 | NWNW | 29.00 |
| T02N R21E S13            | SWNW            | 28.00           | T02N R21E S13 | SENW | 32.00 |
| T02N R21E S13            | NESW            | 12.00           | T02N R21E S13 | NWSW | 23.00 |
| T02N R21E S14            | SWNE            | 5.10            | T02N R21E S14 | SENE | 25.00 |
| T02N R21E S14            | NESW            | 1.70            | T02N R21E S14 | SESW | 3.60  |
| T02N R21E S14            | NESE            | 40.00           | T02N R21E S14 | NWSE | 36.00 |
| T02N R21E S14            | SWSE            | 38.00           | T02N R21E S14 | SESE | 29.00 |
| T02N R21E S22            | SESE            | 5.20            | T02N R21E S23 | NENE | 32.00 |
| T02N R21E S23            | NWNE            | 8.70            | T02N R21E S23 | SWNE | 34.00 |
| T02N R21E S23            | SENE            | 36.00           | T02N R21E S23 | NENW | 1.50  |
| T02N R21E S23            | SENW            | 27.00           | T02N R21E S23 | NESW | 40.00 |
| T02N R21E S23            | NWSW            | 13.00           | T02N R21E S23 | SWSW | 35.00 |
| T02N R21E S23            | SESW            | 40.00           | T02N R21E S23 | NESE | 40.00 |
| T02N R21E S23            | NWSE            | 40.00           | T02N R21E S23 | SWSE | 40.00 |
| T02N R21E S23            | SESE            | 40.00           | T02N R21E S24 | SWNW | 38.00 |
| <del>T02N R21E S24</del> | <del>SENW</del> | <del>0.10</del> | T02N R21E S24 | NESW | 18.00 |
| T02N R21E S24            | NWSW            | 39.00           | T02N R21E S24 | SWSW | 39.00 |
| T02N R21E S24            | SESW            | 17.00           | T02N R21E S25 | NENW | 13.00 |
| T02N R21E S25            | NWNW            | 39.00           | T02N R21E S25 | SWNW | 39.00 |
| T02N R21E S25            | SENW            | 28.00           | T02N R21E S25 | NESW | 18.00 |
| T02N R21E S25            | NWSW            | 38.00           | T02N R21E S25 | SWSW | 8.10  |
| T02N R21E S26            | NENE            | 40.00           | T02N R21E S26 | NWNE | 40.00 |

*Handwritten:*  
JGP  
NBS  
DN

|               |      |       |               |      |       |
|---------------|------|-------|---------------|------|-------|
| T02N R21E S26 | SWNE | 40.00 | T02N R21E S26 | SENE | 40.00 |
| T02N R21E S26 | NENW | 40.00 | T02N R21E S26 | NWNW | 40.00 |
| T02N R21E S26 | SWNW | 40.00 | T02N R21E S26 | SENW | 40.00 |
| T02N R21E S26 | NESW | 40.00 | T02N R21E S26 | NWSW | 40.00 |
| T02N R21E S26 | SWSW | 37.00 | T02N R21E S26 | SESW | 32.00 |
| T02N R21E S26 | NESE | 40.00 | T02N R21E S26 | NWSE | 40.00 |
| T02N R21E S26 | SWSE | 32.00 | T02N R21E S26 | SESE | 28.00 |
| T02N R21E S27 | NENE | 35.00 | T02N R21E S27 | NWNE | 26.00 |
| T02N R21E S27 | SWNE | 40.00 | T02N R21E S27 | SENE | 38.00 |
| T02N R21E S27 | NENW | 2.50  | T02N R21E S27 | SWNW | 2.40  |
| T02N R21E S27 | SENW | 35.00 | T02N R21E S27 | NESW | 17.00 |
| T02N R21E S27 | NWSW | 2.80  | T02N R21E S27 | SESW | 3.10  |
| T02N R21E S27 | NESE | 40.00 | T02N R21E S27 | NWSE | 40.00 |
| T02N R21E S27 | SWSE | 20.00 | T02N R21E S27 | SESE | 19.00 |
| T02N R21E S35 | NENE | 13.00 | T02N R21E S35 | NWNE | 14.00 |
| T02N R21E S35 | SWNE | 25.00 | T02N R21E S35 | SENE | 20.00 |
| T02N R21E S35 | NENW | 16.00 | T02N R21E S35 | NWNW | 8.40  |
| T02N R21E S35 | SENW | 5.30  |               |      |       |

2127 ACRES TOTAL

This right is limited to the irrigation of 1,600 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 1,600 acres in a single irrigation season. Combined Right Nos.: 37-390, 37-391, 37-392, 37-393, 37-394, 37-395, 37-396, 37-397, 37-398, 37-399, 37-400, and 37-401.

The rights listed below are limited to the irrigation of a combined total of 2,127 acres in a single irrigation season. Combined Right Nos.: 37-390, 37-391, 37-392, 37-393, 37-394, 37-395, 37-396, 37-397, 37-398, 37-399, 37-400, 37-401, 37-2092, 37-2234, 37-2294, 37-2260A, and 37-2260B.

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

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

Right includes accomplished change in source pursuant to Section 42-1425, Idaho Code.

*NBS  
me  
fwp  
DN*