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OCT 24 2008

DEPARTMENT OF
WATER RESOURCES

Attorneys for Christopher A. Flanigan and Jacqueline Renee Adams Flanigan, Husband and Wife, and for BOWETA LLC

**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

Case No. 39576

Subcase Nos. 37-2168A, 37-2168C
37-22121, and 37-22125

**STIPULATION FACILITATING
SF5s**

The undersigned parties ("Parties"), by and through their counsel of record, hereby stipulate as follows with respect to Water Right Nos. 37-8870, 37-2168A, 37-2168C, 37-12219, 37-22121, and 37-22125 (collectively as the "Water Rights"):

1. Christopher A. Flanigan and Jacqueline Renee Adams Flanigan, Husband and Wife (the "Flanigans"), who are named as Chris and Jackie Flanigan in some documents pertaining to the Water Rights, are the claimants for Water Right Nos. 37-2168A, 37-2168C, 37-22121, and 37-22125.

2. Some of the Water Rights and/or land to which the Water Rights are appurtenant may be owned by BOWETA LLC, a Colorado limited liability company.

3. The Flanigans own and control BOWETA LLC, a family-owned entity employed for estate and tax planning purposes.

4. The Flanigans and/or BOWETA LLC also own Water Right No. 37-8870, a licensed right for which no SRBA claim has been filed, and Water Right No. 37-12219, for which a partial decree has been issued by the SRBA Court.

5. The Flanigans filed objections to the Director's Reports for Water Right Nos. 37-2168A and 37-2168C. In their objections, the Flanigans contended that Oregon Gulch Creek is tributary to sinks. Part "E" of those objections set out the following explanation of the Flanigans' position:

Oregon Gulch Creek is physically separate from the Big Wood River. Oregon Gulch Creek is a "dry creek" and does not discharge to the Wood River during the irrigation season. Instead, it is tributary to sinks. Administration of this right historically has been separate from surface rights on the Big Wood River. This separate administration should be reflected in the general provisions governing this water right. . . .

6. Tom O'Gara, John F. Stevenson, Bill Molyneux, Pete Van Der Meulen, Grace Eakin, Gerald Bashaw, and Pepin Corso-Harris ("Concerned Water Users") and Big Wood Canal Company ("Canal Company") filed a combined Standard Form 2 Response to Objection ("Response") for Water Right No. 37-2168C.

7. The purpose of the Response was to contest the Flanigans' Objection as described in paragraph 4 above. Concerned Water Users and Canal Company did not file a response in connection to Water Right No. 37-2168A, but they have the same concern with respect to the Flanigans' "dry creek" objection as to that water right.

8. The Flanigans agree to enter into a Standard Form 5 Stipulation ("SF5") for Water Right Nos. 37-2168A and 37-2168C containing the following key terms: First, the Flanigans will withdraw their claim that the Oregon Gulch Creek is a "dry creek" entitled to

separate administration from the Big Wood River as described in paragraph 4 above. Second, the SF5s will correct the location of the point of diversion, which has not physically moved but is incorrectly displayed.

9. Concerned Water Users and Canal Company will execute the above-described SF5 for Water Right No. 37-2168C.

10. Concerned Water Users and Canal Company agree not to file any objection or response or otherwise to oppose recognition of Water Right No. 37-2168A as reflected in the above-described SF5.

11. Concerned Water Users and Canal Company agree not to file any objection or response or otherwise to oppose recognition of Water Right Nos. 37-22121 and 37-22125 so long as those water rights are recommended for approval by the Director of the Idaho Department of Water Resources materially in conformance with how they have been claimed (as reflected in the water right summaries set out as Exhibits A and B), except that the Director may, in his judgment, chose to describe the point of diversion for one or both of these rights as the spring source of the unnamed stream. The water rights shall contain no condition or general provision regarding separate administration.

12. Concerned Water Users and Canal Company agree not to oppose or collaterally attack Water Right Nos. 37-8870 or 37-12219.

13. This Stipulation is intended to facilitate the final adjudication those Water Rights now before the SRBA. The Flanigans are free to file a request with the Department to transfer, lease, or convey all or part of any of the Water Rights in the future, and Concerned Water Users and Canal Company are free to oppose any such action based on such legal grounds that they

might have in the future in light of and in recognition of the partial decree of these Water Rights agreed to in this Stipulation.

14. The obligations on the Parties set out in this Stipulation are contingent upon the approval by the SRBA Court of the above-referenced SF5s for Water Right Nos. 37-2168A and 37-2168C materially in accordance with paragraph 8 and upon the issuance of Director's Reports and approval by the SRBA Court of Water Right Nos. 37-22121 and 37-22125 materially in accordance with paragraph 11.

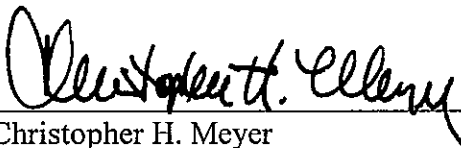
15. Except as set forth expressly in this Stipulation, the Flanigans and BOWETA LLC retain the right to pose any legal or factual defense (including but not limited to futile call) that they may have with respect to any future delivery call, curtailment, or administration of any of the Water Rights.

This Stipulation may be executed in counterparts. Facsimile and electronic signatures shall be treated as originals. This Stipulation is effective only if executed by all Parties.

Respectfully submitted,

GIVENS PURSLEY LLP

Dated: Sept. 24, 2008

By: 
Christopher H. Meyer

*Attorneys for Christopher A. Flanigan and
Jacqueline Renee Adams Flanigan, Husband and
Wife*

GIVENS PURSLEY LLP

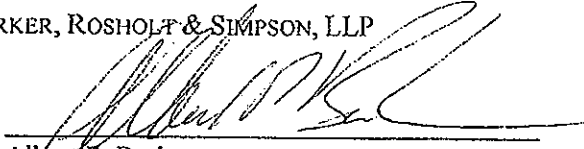
Dated: Sept. 24, 2008

By: 
Christopher H. Meyer

Attorneys for BOWETA LLC

BARKER, ROSHOLT & SIMPSON, LLP

Dated: 10/7/08

By: 

Albert P. Barker

*Attorneys for Tom O'Gara, John F. Stevenson,
Bill Molyneux, Pete Van Der Meulen, Grace
Eakin, Gerald Bashaw, and Pepin Corso-Harris*

HOBDEY & HOBDEY

Dated: _____

By: _____

Craig D. Hobdey

Attorneys for Big Wood Canal Co.

BARKER, ROSHOLT & SIMPSON, LLP

Dated: _____

By: _____
Albert P. Barker

*Attorneys for Tom O'Gara, John F. Stevenson,
Bill Molyneux, Pete Van Der Meulen, Grace
Eakin, Gerald Bashaw, and Pepin Corso-Harris*

HOBDEY & HOBDEY

Dated: 9-25-08

By: *Craig D. Hobdey*
Craig D. Hobdey

Attorneys for Big Wood Canal Co.

EXHIBIT A: Adjudication Claim Report for No. 37-22121

Water Right Report

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[Close](#)

IDAHO DEPARTMENT OF WATER RESOURCES Adjudication Claim Report

09/09/2008

WATER RIGHT NO. 37-22121

Owner Type	Name and Address
Current Owner	CHRIS FLANIGAN
Current Owner	JACKIE FLANIGAN
	HC 64 BOX 8028
	KETCHUM, ID 83340
	(208)725-5980

Priority Date: 03/25/1920

Basis: Beneficial Use

Status: Active

Source	Tributary
UNNAMED STREAM	SINKS

Beneficial Use	From	To	Diversion Rate	Volume
STOCKWATER	01/01	12/31	0.04 CFS	
Total Diversion			0.04 CFS	

Location of Point(s) of Diversion:

UNNAMED STREAM End of Stream Flow	NWSWSE	Sec. 10	Township 05N	Range 17E	BLAINE County
UNNAMED STREAM Beginning of Stream Flow	SWSWSE	Sec. 10	Township 05N	Range 17E	BLAINE County

<http://www.idwr.idaho.gov/apps/ExtSearch/RightReportAJ.asp?BasinNumber=37&Sequenc...> 9/9/2008

Place(s) of use:

Place of Use Legal Description: STOCKWATER BLAINE County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
05N	17E	10		SWSE										

Dates:

Licensed Date:

Claim Received Date:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal:

Owner Name Connector: AND

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

[Close](#)<http://www.idwr.idaho.gov/apps/ExtSearch/RightReportAJ.asp?BasinNumber=37&Sequenc...> 9/9/2008

EXHIBIT B: Adjudication Claim Report for No. 37-22125

Water Right Report

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[Close](#)

IDAHO DEPARTMENT OF WATER RESOURCES Adjudication Claim Report

09/09/2008

WATER RIGHT NO. 37-22125

Owner Type	Name and Address
Current Owner	CHRIS FLANIGAN
Current Owner	JACKIE FLANIGAN
	HC 64 BOX 8028
	KETCHUM, ID 83340
	(208)725-5980

Priority Date: 03/25/1920

Basis: Beneficial Use

Status: Active

Source	Tributary
UNNAMED STREAM	SINKS

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	04/15	10/31	0.31 CFS	
Total Diversion			0.31 CFS	

Location of Point(s) of Diversion:

UNNAMED STREAM	SESESW	Sec. 10	Township 05N	Range 17E	BLAINE County
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Place(s) of use:

Place of Use Legal Description: IRRIGATION BLAINE County

<http://www.idwr.idaho.gov/apps/ExtSearch/RightReportAJ.asp?BasinNumber=37&Sequenc...> 9/9/2008

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
05N	17E	10		SWSE	15.6									

Total Acres: 15.6

Dates:

Licensed Date:

Claim Received Date:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal:

Owner Name Connector: AND

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

[Close](#)

<http://www.idwr.idaho.gov/apps/ExtSearch/RightReportAJ.asp?BasinNumber=37&Sequenc...> 9/9/2008

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd of October, 2008, the foregoing was filed, served, or copied as follows:

ORIGINAL FILED

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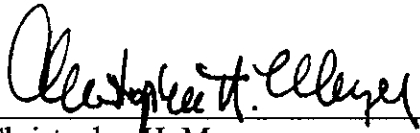
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