

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 No.: 37-737B

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 agree and stipulate that water right 37-737B should be added to Attachment 1 of the Basin 37, Part 1 Surface Water General Provisions. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT / OBJECTOR:

C. E. Molyneux 2/24/09
C. E. Molyneux Date
Claimant

CLAIMANT / OBJECTOR:

Dana L. Hofstetter 2/24/09
Dana L. Hofstetter Date
Attorney for C. E. Molyneux

IDWR Concurrence:

Steve Clelland 2/24/09
Steve Clelland Date
Sr. Water Resource Agent

IDWR Concurrence:

Nicholas B. Spencer 2-24-09
Nicholas B. Spencer Date
Deputy Attorney General
Attorney for IDWR

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

RIGHT NUMBER: 37-7378

NAME AND ADDRESS:

C E HOLYNEUX
080 LAIDLAW PK RD
CAREY ID 83320

SOURCE: FISH CREEK

Tributary: LITTLE WOOD RIVER

QUANTITY: 0.700 CFS

IRRIGATION USE OF THIS RIGHT WITH RIGHT NO. 37-7808 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 1.0 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 140 AF. The water right holder is entitled to this combined amount of water at a point where the water enters the irrigation place of use described below.

Any pro rata reduction of water right nos. 37-007378 and 37-007808 during periods of water shortage shall be calculated as if the water right holder is entitled to divert a combined flow rate of 1.5 cfs for irrigation. The watermaster will only reduce the combined irrigation flow rate below 1.0 cfs by an amount equal to the amount that a water right which authorized diversion of 1.5 cfs would be reduced to less than 1.0 cfs.

USE OF THIS RIGHT WITH RIGHT NO. 37-7808 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 1.0 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 140 AF.

PRIORITY DATE: 03/30/1883

POINT OF DIVERSION:

T01N R22E S33 SESESE Within BLAINE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE:

QUANTITY:

IRRIGATION

04/15 10/15

0.500 CFS

04/15 10/31

0.700 CFS

The additional 0.20 cfs of the total diversion rate of this right shall be delivered to the Hot Springs Canal for conveyance use during the irrigation season pursuant to transfer no. 3922.

The use of water for irrigation under this right may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE:

IRRIGATION within BLAINE County

T01S R22E S15 SWSW 35.0

T01S R22E S16 SESE 35.0

70 ACRES TOTAL

IRRIGATION USE OF THIS RIGHT WITH RIGHT NO. 37-7808 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 70 ACRES IN A SINGLE IRRIGATION SEASON.

USE OF THIS RIGHT WITH RIGHT NO. 37-7808 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 70 ACRES IN A SINGLE IRRIGATION SEASON.

CONVEYANCE USE OF THIS RIGHT IS IN THE HOT SPRINGS CANAL PURSUANT TO TRANSFER NO. 3922.

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NBS

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

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(5), Idaho Code.

Right Nos. 37-00737B and 37-00780B are subject to the conditions of the Second Amended Final Order (dated 04-14-1998) in the matter of the Application for Transfer No. 3922.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Right Nos. 37-00737B and 37-00780B are subject to the conditions of the Second Amended Final Order (dated 04-14-1998) in the matter of the Application for Transfer No. 3922. Right Nos. 37-00737B and 37-00780B are subject to the conditions of the Second Amended Final Order (dated 04-14-1998) in the matter of the Application for Transfer No. 3922. (As follows.) IT IS HEREBY ORDERED that application for transfer no. 3922 is CONDITIONALLY APPROVED with the following conditions: The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval. A totalling measuring device that measures instantaneous flow rate, accumulates total volume, includes a lockable controlling works, and is of a type approved by the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion. No less than one-half of the flow rate diverted to the circular pivot must be derived from either storage water or from ground water rights appurtenant to or leased to the land irrigated by the pivot. The combined flow rate of water diverted pursuant to water Right Nos. 37-00737B and 37-00780B is limited to 3.0 cfs. Unless otherwise adjusted as provided herein, the total volume of water diverted pursuant to water right nos. 37-00737B and 37-00780B is limited to 140 acre-feet annually. These rights when combined with all other rights shall provide no more than 0.02 cfs per acre and not more than 4.0 acre feet per acre for the place of use. Use of water under the transferred water right nos. 37-00737B and 37-00780B will be regulated by the watermaster of State Water District No. 37-U, Fish Creek. Any pro rata reduction of water right nos. 37-00737B and 37-00780B during periods of water shortage shall be calculated as if the water right holder is entitled to divert a flow rate of 1.4 cfs. The watermaster will only reduce the flow rate below 1.0 cfs by an amount equal to the amount that a water right which authorized diversion of 1.4 cfs would be reduced to less than 1.0 cfs. Any party shall be entitled to petition the Department within five (5) years from the effective date of this order seeking to modify the approval conditions of this transfer relating to enlargement or injury, provided the petition is based upon factual evidence resulting from the transfer one or more years following approval and implementation of the transfer. The petitioner shall serve a copy of the petition upon the other parties to this proceeding or their successors in interest. The petition shall be considered and resolved by the Department as a separate proceeding.

BASIN 37, PART I SURFACE WATER GENERAL PROVISIONS

The Director of the Idaho Department of Water Resources recommends to the Snake River Basin Adjudication District Court that the following general provisions be included in the decree determining rights to water from Basin 37.

1. The following water rights from the following sources of water in Basin 37 shall be administered separately from all other water rights in Basin 37 in accordance with the prior appropriation doctrine as established by Idaho law:

See Attachment A

2. The following water rights from the following sources of water in Basin 37 shall be administered separately from all other water rights in the Snake River Basin in accordance with the prior appropriation doctrine as established by Idaho law:

Water Right No.
None

Source
None

3. Except as otherwise specified above, all other water rights within Basin 37 will be administered as connected sources of water in the Snake River Basin in accordance with the prior appropriation doctrine as established by Idaho law.

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WATER SOURCE: Little Wood River and Tributaries

37-10A	37-456	37-747
37-11A	37-524	37-748
37-11C	37-525A	37-772A
37-11D	37-525B	37-773
37-12	37-527	37-774A
37-13	37-528	37-774B
37-14B	37-542	37-775
37-14C	37-545A	37-776
37-17B	37-545B	<u>37-780B</u>
37-18	37-545D	37-781A
37-32A	37-545E	37-781B
37-32B	37-545F	37-1006A
37-96A	37-545G	37-1026A
37-96B	37-545H	37-1026B
37-97A	37-547	37-1036A
37-97B	37-561A	37-1036B
37-127	37-561B	37-1040A
37-144A	37-563	37-1040B
37-144B	37-564	37-1134
37-144C	37-618A	37-1135
37-157A	37-618B	37-1137
37-157B	37-633	37-1138
37-197C	37-634A	37-1170
37-197D	37-634B	37-1178
37-199B	37-636A	37-1179
37-200A	37-636B	37-1236A
37-200B	37-636C	37-1236B
37-201	37-636D	37-1236C
37-202	37-639	37-2245
37-209	37-640A	37-4021
37-210	37-649	37-10675
37-211	37-650	37-11565
37-268B	37-651	37-20631
37-268C	37-668	37-20632
37-292B	37-670A	37-20633
37-303A	37-670B	37-20634
37-303B	37-676	37-20739
37-306	37-677	37-20740
37-320A	37-701	37-20829
37-370	<u>37-737B</u>	37-20830
37-371B	37-739	37-21218
37-372B	37-740	37-21219
37-405	37-741	37-21249
37-406	37-744B	37-21275
	37-744C	37-21276

CEM
HTT
NBS
SCC

CERTIFICATE OF SERVICE

I certify that on Feb. 24, 2009, 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
☒ E-mail

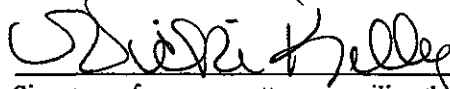
2. Copies to:

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

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

Dana L. Hofstetter
Hofstetter Law Office, LLC
608 West Franklin Street
Boise, ID 83702

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



Signature of person or attorney mailing the form

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