

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

JUN 18 2010

By _____ Clerk

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.: 37-20381

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.

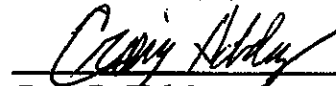
The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions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

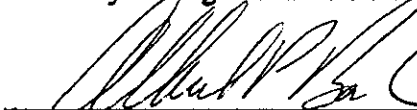
The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT/OBJECTOR:

 4/19/2010
James R. Laski Date
Attorney for Helios Development LLC

RESPONDENTS:

 6-9-10
Craig D. Hobdey Date
Attorney for Big Wood Canal Company

 6-7-10
Albert P. Barker Date
Attorney for Tom O'Gara, John F. Stevenson, Bill Molyneux, Pete Van Der Meulen, Grace Eakin, Rocky Sherbine, Gerald Bashaw, and Pepin Corso-Harris

IDWR CONCURRENCE:

Kelly K. Christensen 4-2-10

Kelly K. Christensen
Sr. Water Resource Agent

Date

IDWR CONCURRENCE:

Christopher M. Bromley 4/5/10

Christopher M. Bromley
Deputy Attorney General
Attorney for IDWR

Date

10/29/2009

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

RIGHT NUMBER: 37-20381

NAME AND ADDRESS: HELIOS DEVELOPMENT LLC
C/O EDWARD A LAWSON
PO BOX 3310
KETCHUM ID 83340

SOURCE: BIG WOOD RIVER

TRIBUTARY: MALAD RIVER

Water may be diverted from Warm Springs Creek at the points of diversion described below only when: (1) all other rights diverted from Warm Springs Creek that are senior to November 18, 1987 have been curtailed; and (2) the saved water provisions of the Rockwell By-Pass, as established in Rockwell v. Coffin (Blaine County, August 29, 1949), are met.

Water diverted under this right is exchanged with water saved by use of the Rockwell By-Pass.

QUANTITY: 0.500 CFS

Right Nos. 37-212A, 37-2621 and 37-20381 are limited to a total combined diversion rate of 1.12 cfs.

A measuring device of a type acceptable to the Department shall be installed to measure the amount of water discharged back into Warm Springs Creek at TWP 4N, R2E 17E Sec 12 SESESW

PRIORITY DATE: 11/12/1936

Pursuant to a call in times of scarcity, this right is senior to all other rights diverted from the Big Wood River that did not result from saved water in the Rockwell By-Pass, as established by and subject to the provisions in Rockwell v. Coffin (Blaine County, August 29, 1949).

POINT OF
DIVERSION:

T04N R17E S11 NWSESE Within BLAINE County
T04N R17E S12 NWSWSW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.500 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T04N R17E S11	NWSE	4.30	T04N R17E S11	SESE	16.00
T04N R17E S12	NWSW	7.60			

27.9 ACRES TOTAL

Place of use does not include federal public lands.

Right Nos. 37-212A, 37-2621 and 37-20381 are limited to the irrigation of a combined total of 27.9 acres in a single irrigation season.

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

The saved water shall be made available to the Rockwell By-Pass saved water right holders any time the Rockwell By-Pass is being used to deliver water to Broadford Slough right holders. The Rockwell saved water rights shall be curtailed when calls for senior water rights from the Broadford Slough cannot be delivered.

10/29/2009

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

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.

Property is also known as Homestead Entry Survey No. 292.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

This claim is based upon an exchange of a portion of 37-833.

Rockwell By-Pass owners must maintain the by-pass for the entire length of the by-pass capable of carrying 17.36 cfs of water during the irrigation season.

KKC
CE
JRL
QPB
CH

CERTIFICATE OF SERVICE

I certify that on June 17, 2010, 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 R. Laski
Lawson & Laski PLLC
P.O. Box 3310
Ketchum, ID 83340

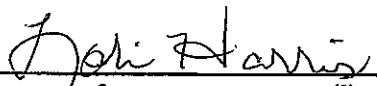
☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

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Hobdey & Hobdey
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Shelley M. Davis
Barker, Rosholt & Simpson LLP
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Boise, ID 83701-2139

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☐ Hand-Delivered
☐ Facsimile


Signature of person or attorney mailing the form