

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

SEP - 2 2010

By

Cle.

Deputy Cler

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. 37-12818D

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.

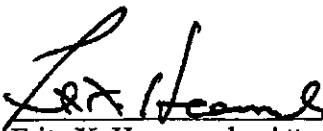
The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

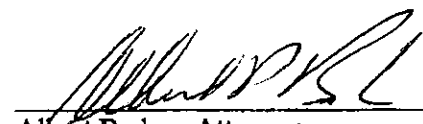
CLAIMANTS/RESPONDENTS

Mariana S Paen Trust

OBJECTORS:

Concerned Water Users

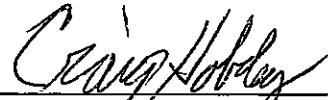
 8/19/10
Fritz X. Haemmerle, Attorney Date

 8/19/10
Albert Barker, Attorney

STANDARD FORM 5 - 37-12818D

OBJECTORS:

Big Wood Canal Company

 8-25-10

Craig D. Hobday, Attorney Date

IDWR Concurrence:

 8/30/10  8/30/10

IDWR Agent Date Deputy Attorney General, IDWR Date

CERTIFICATE OF MAILING

I certify that on September 1, 2010, 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

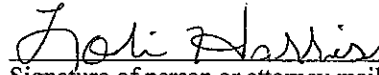
2. Copies to:

BILL MOLYNEUX
GERALD BASHAW
GRACE EAKIN
JOHN F STEVENSON
PEPIN CORSO-HARRIS
PETE VAN DER MEULEN
ROCKY SHERBINE
TOM O GARA
Represented by:
ALBERT P BARKER
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139

BIG WOOD CANAL COMPANY
Represented by:
CRAIG D. HOBDEY
125 5TH AVE
PO BOX 176
GOODING, ID 83330

MARIANA S PAEN TRUST
Represented by:
HAEMMERLE, FRITZ X.
PO BOX 1800
HAILEY, ID 83333

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

A handwritten signature in cursive script, appearing to read "Jodi Harris", written over a horizontal line.

Signature of person or attorney mailing the form

06/16/2010

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

RIGHT NUMBER: 37-12818D

NAME AND ADDRESS: MARIANA S PAEN TRUST
990 ALAMEDA BLVD 117 N HIAWATHA
CORONADO CA 92118 HAILEY ID 83333

FXH *OPS* *CH* *CB*

SOURCE: BIG WOOD RIVER
GROUND WATER

TRIBUTARY: MALAD RIVER
TRIBUTARY:

QUANTITY: 0.050 CFS
7.00 APY

To mitigate for injury to other water users caused by the diversion and use of water under this right, the watermaster shall deliver 0.05 cfs of this right into the Hiawatha Canal where it shall remain undiverted.

This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

PRIORITY DATE: 03/24/1883

POINT OF
DIVERSION:

T03N R18E S20 SWNW Within BLAINE County
T03N R18E S33 SESW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
MITIGATION	04/15 10/31	0.050 CFS
IRRIGATION	04/15 10/31	0.050 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T03N R18E S33 SESW 2.00

MITIGATION same as IRRIGATION

2 ACRES TOTAL

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

Failure of the right holder to comply with the conditions of Transfer No. 5299 is cause for the Director to rescind approval of the transfer.

This right is a split from former right 37-577.

Place of use is located within Lot 5, Buckhorn Subdivision First Addition.

This right was split from A37-12818E.

Diversion of groundwater is limited to those times water is available for diversion under this right and priority from the Big Wood River and is actually diverted into the Hiawatha Canal for mitigation purposes.
0.05 cfs of surface water from the Big Wood River shall continue to be diverted in the SWNW, S20, T03N, R18E into the Hiawatha Canal and remain undelivered and allowed to sink to mitigate the use of groundwater under this right.

Place of use is located within Lot 5, Buckhorn Subdivision First Addition.

The right holder shall accomplish the change authorized by Transfer No. 5299 within one (1) year of the date of this approval.

The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

Use of water under this water right will be regulated by the watermaster of State Water District No. 37.

CH *CH*
FXH

SEL