

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

SEP 24 2010

By

Clerk

Deputy 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.: 37-215D

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.

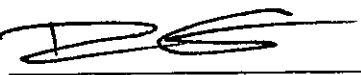
The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions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

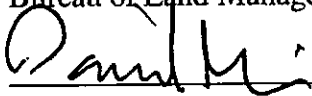
 8/31/10
Gary D. Slette Date
Attorney for Picabo Livestock Co. Inc.

OBJECTOR:

 9/10/10
David I. Stanish Date
Deputy Attorney General
Attorney for Idaho Dept. of Lands

OBJECTOR:

United States on behalf of the
Bureau of Land Management

 9/3/10
David L. Negri Date
Attorney, U. S. Department of Justice
Environment and Natural Resources

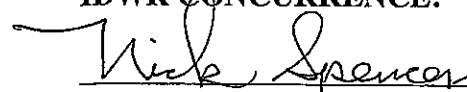
IDWR CONCURRENCE:



Douglas Jones
Engineer, Technical 1

8/16/10
Date

IDWR CONCURRENCE:



Nicholas B. Spencer
Deputy Attorney General
Attorney for IDWR

9-21-10
Date

08/13/2010

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

RIGHT NUMBER: 37-215D

NAME AND ADDRESS: PICABO LIVESTOCK CO INC
PO BOX 748
PICABO ID 83348SOURCE: LOVING CREEK
SILVER CREEKTRIBUTARY: SILVER CREEK
TRIBUTARY: LITTLE WOOD RIVER

QUANTITY: 4.000 CFS

Rights 37-21, 37-22, 37-186, 37-187, 37-189, 37-213, 37-215D, 37-333, 37-351A, 37-352A, 37-377, 37-378, 37-695, 37-942, 37-2405, 37-11892, 37-11898, 37-11900, 37-11903, and 37-20609 when combined shall not exceed a total diversion rate of 72.78 cfs, nor a total combined annual volume measured at the points of diversion of 17,096.6 af. These rights shall not exceed an annual diversion volume of 17,081 af at the points of diversion for irrigation purposes, nor a diversion rate of 0.17 cfs and an annual diversion volume 15.6 af for stockwater purposes.

The total instantaneous diversion of water from all points of diversion for all surface rights identified under ~~this Transfer~~ transfer No. 69626 and the ground water rights identified under ~~Transfer No. transfer~~ 69624 shall not exceed 72.78 cfs, nor a total combined annual volume measured at the points of diversion of 17,081 af for irrigation purposes.

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 03/31/1877 06/15/1899

As long as the dike situated in the SE1/4SE1/4NE1/4, Section 27, T.1S., R.20E., B.M., Blaine County, Idaho, located approximately at Latitude N 43° 18.586' and Longitude W 114° 03.483', is maintained so as to prevent the waters of Silver Creek from wasting through sink holes, Water Rights 37-215G and 37-215D, and all splits therefrom, are for saved or salvaged water and shall therefore have the prior and exclusive right to the delivery of 6.4 cfs of the waters of Silver Creek, as established by, controlled by, and subject to the provisions within the Frost v. Alturas Water Company decree (Lincoln County District Court, December 13, 1909). Accordingly, they shall not be subject to the priority system during calls in times of scarcity. The above described dike was first constructed on 6-1-1899. This date is listed solely for purpose of documenting when the saved and salvaged water was first put to beneficial use, and not for purpose of subjecting this right (or any splits therefrom) to priority calls based upon this date.

POINT OF
DIVERSION:

T01S R19E S24 NESENW Within BLAINE County
T01S R20E S20 SWSWSE Within BLAINE County
T01S R20E S30 SWNENW Within BLAINE County
T01S R20E S30 NENWNW Lot 1 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	4.000 CFS
STOCKWATER	01/01 12/31	0.080 CFS

PLACE OF USE:

IRRIGATION in BLAINE County

T01S R20E S19	NENE	40.00	T01S R20E S19	SENE	39.00
T01S R20E S19 Lot 4 SWSW		38.00	T01S R20E S19	SESW	39.00
T01S R20E S19	NESE	26.00	T01S R20E S19	NWSE	32.00
T01S R20E S19	SWSE	35.00	T01S R20E S19	SESE	37.00
T01S R20E S20	NWNW	40.00	T01S R20E S20	SWNW	40.00
T01S R20E S20	NESW	30.00	T01S R20E S20	NWSW	38.00
T01S R20E S20	SWSW	19.00	T01S R20E S20	SESW	19.00
T01S R20E S20	NESE	40.00	T01S R20E S20	NWSE	36.00
T01S R20E S20	SWSE	11.00	T01S R20E S20	SESE	36.00
T01S R20E S21	SWNE	40.00	T01S R20E S21	SENE	27.00
T01S R20E S21	NESW	40.00	T01S R20E S21	NWSW	40.00
T01S R20E S21	SWSW	40.00	T01S R20E S21	SESW	36.00
T01S R20E S21	NESE	40.00	T01S R20E S21	NWSE	40.00
T01S R20E S21	SWSE	37.00	T01S R20E S21	SESE	28.00
T01S R20E S22	SWNW	23.00	T01S R20E S22	SENE	19.00
T01S R20E S22	NESW	6.80	T01S R20E S22	NWSW	36.00
T01S R20E S22	SWSW	37.00	T01S R20E S22	SESW	27.00
T01S R20E S26	NWSW	14.00	T01S R20E S26	SWSW	36.00
T01S R20E S26	SESW	3.00	T01S R20E S27	NWNE	20.00
T01S R20E S27	SWNE	29.00	T01S R20E S27	NENW	36.00
T01S R20E S27	NWNW	18.00	T01S R20E S27	SWNW	32.00
T01S R20E S27	SENE	22.00	T01S R20E S27	NESW	15.00
T01S R20E S27	NWSW	24.00	T01S R20E S27	SWSW	0.60
T01S R20E S27	SESW	12.00	T01S R20E S27	NESE	30.00
T01S R20E S27	NWSE	16.00	T01S R20E S27	SWSE	32.00
T01S R20E S27	SESE	36.00	T01S R20E S28	NENE	20.00
T01S R20E S28	NWNE	24.00	T01S R20E S28	SWNE	34.00
T01S R20E S28	SENE	29.00	T01S R20E S28	NENW	17.00
T01S R20E S28	NWNW	22.00	T01S R20E S28	SWNW	40.00
T01S R20E S28	SENE	38.00	T01S R20E S28	NESW	40.00
T01S R20E S28	NWSW	40.00	T01S R20E S28	SWSW	32.00
T01S R20E S28	SESW	38.00	T01S R20E S28	NESE	40.00
T01S R20E S28	NWSE	40.00	T01S R20E S28	SWSE	36.00
T01S R20E S28	SESE	6.40	T01S R20E S29	NENE	29.00
T01S R20E S29	NWNE	38.00	T01S R20E S29	SWNE	40.00
T01S R20E S29	SENE	40.00	T01S R20E S29	NENW	33.00
T01S R20E S29	NWNW	27.00	T01S R20E S29	SWNW	33.00
T01S R20E S29	SENE	40.00	T01S R20E S29	NESW	36.00
T01S R20E S29	NESE	40.00	T01S R20E S29	NWSE	39.00


 DN
 DS
 NBS

T01S R20E S29	SWSE	2.80	T01S R20E S29	SESE	29.00
T01S R20E S30	NENE	30.00	T01S R20E S30	NWNE	35.00
T01S R20E S30	SWNE	40.00	T01S R20E S30	SENE	31.00
T01S R20E S30	NENW	18.00	T01S R20E S30 Lot 1	NWNW	2.00
T01S R20E S30	SENW	15.00	T01S R20E S30	NESE	37.00
T01S R20E S30	NWSE	40.00	T01S R20E S30	SWSE	35.00
T01S R20E S30	SESE	40.00	T01S R20E S31	NENE	40.00
T01S R20E S31	NWNE	15.00	T01S R20E S31	SENE	40.00
T01S R20E S33	NENE	4.90	T01S R20E S33	NWNE	19.00
T01S R20E S33	NENW	4.40	T01S R20E S34	NENE	40.00
T01S R20E S34	NWNE	40.00	T01S R20E S34	NENW	34.00
T01S R20E S34	NWNW	0.50	T01S R20E S35	NWNW	41.00
T01S R20E S35	SWNW	25.00			

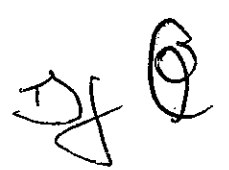
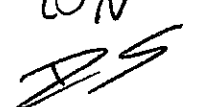
STOCKWATER in BLAINE County

T01S R20E S19	NENE		T01S R20E S19	SENE	
~~T01S R20E S19~~	~~NESW~~				
T01S R20E S19 Lot 4	SWSW		T01S R20E S19	SESW	
T01S R20E S19	NESE		T01S R20E S19	NWSE	
T01S R20E S19	SWSE		T01S R20E S19	SESE	
T01S R20E S20	NWNW		T01S R20E S20	SWNW	
T01S R20E S20	NESW		T01S R20E S20	NWSW	
T01S R20E S20	SWSW		T01S R20E S20	SESW	
T01S R20E S20	NESE		T01S R20E S20	NWSE	
T01S R20E S20	SWSE		T01S R20E S20	SESE	
~~T01S R21E S21~~	~~NENE~~				
T01S R20E S21	SWNE		T01S R20E S21	SENE	
T01S R20E S21	NESW		T01S R20E S21	NWSW	
T01S R20E S21	SWSW		T01S R20E S21	SESW	
T01S R20E S21	NESE		T01S R20E S21	NWSE	
T01S R20E S21	SWSE		T01S R20E S21	SESE	
T01S R20E S22	SWNW		T01S R20E S22	SENW	
T01S R20E S22	NESW		T01S R20E S22	NWSW	
T01S R20E S22	SWSW		T01S R20E S22	SESW	
~~T01S R20E S22~~	~~SWSE~~				
T01S R20E S26	NWSW		T01S R20E S26	SWSW	
T01S R20E S26	SESW		T01S R20E S27	NWNE	
T01S R20E S27	SWNE		T01S R20E S27	NENW	
T01S R20E S27	NWNW		T01S R20E S27	SWNW	
T01S R20E S27	SENW		T01S R20E S27	NESW	
T01S R20E S27	NWSW		T01S R20E S27	SWSW	



 NBS

T01S R20E S27	SESW	T01S R20E S27	NESE
T01S R20E S27	NWSE	T01S R20E S27	SWSE
T01S R20E S27	SESE	T01S R20E S28	NENE
T01S R20E S28	NWNE	T01S R20E S28	SWNE
T01S R20E S28	SENE	T01S R20E S28	NENW
T01S R20E S28	NWNW	T01S R20E S28	SWNW
T01S R20E S28	SENW	T01S R20E S28	NESW
T01S R20E S28	NWSW	T01S R20E S28	SWSW
T01S R20E S28	SESW	T01S R20E S28	NESE
T01S R20E S28	NWSE	T01S R20E S28	SWSE
T01S R20E S28	SESE	T01S R20E S29	NENE
T01S R20E S29	NWNE	T01S R20E S29	SWNE
T01S R20E S29	SENE	T01S R20E S29	NENW
T01S R20E S29	NWNW	T01S R20E S29	SWNW
T01S R20E S29	SENW	T01S R20E S29	NESW
~~T01S R20E S29~~	~~NWSW~~		
T01S R20E S29	SESW	T01S R20E S29	NESE
T01S R20E S29	NWSE	T01S R20E S29	SWSE
T01S R20E S29	SESE	T01S R20E S30	NENE
T01S R20E S30	NWNE	T01S R20E S30	SWNE
T01S R20E S30	SENE	T01S R20E S30	NENW
T01S R20E S30 Lot 1	NWNW	T01S R20E S30	SENW
T01S R20E S30	NESE	T01S R20E S30	NWSE
T01S R20E S30	SWSE	T01S R20E S30	SESE
T01S R20E S31	NENE	T01S R20E S31	NWNE
~~T01S R20E S31~~	~~SWNE~~		
T01S R20E S31	SENE	T01S R20E S33	NENE
T01S R20E S33	NWNE	T01S R20E S33	NENW
T01S R20E S34	NENE	T01S R20E S34	NWNE
~~T01S R20E S34~~	~~SWNE~~	~~T01S R20E S34~~	~~SENE~~
T01S R20E S34	NENW	T01S R20E S34	NWNW
T01S R20E S35	NWNW	T01S R20E S35	SWNW


 ON

 NBS

3037.4 ACRES TOTAL

Right Nos. 37-21, 37-22, 37-186, 37-187, 37-189, 37-213, 37-215D, 37-333, 37-351A, 37-352A, 37-377, 37-378, 37-695, 37-942, 37-2405, 37-11892, 37-11898, 37-11900, 37-11903, and 37-20609 are limited to the irrigation of a combined total of 2711.3 acres in a single irrigation season.

This right is limited to the irrigation of 200 acres within the place of use described above in a single irrigation season.

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

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

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

This right is a combination of old rights 37-215E and 37-215F.

Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37M.

The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

 
DN
 NBS

CERTIFICATE OF SERVICE

I certify that on September 23, 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

Gary D. Slette
Robertson Slette
P.O. Box 1906
Twin Falls, ID 83303-1906

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

U.S. Department of Justice
Environment & Nat'l Resources Div.
550 W. Fort St., MSC 033
Boise, ID 83724

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

David Stanish
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

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



Signature of person or attorney mailing the form