

1257  
DISTRICT COURT-SRBA  
Fifth Judicial District  
County of Twin Falls - State of Idaho

APR 15 2011

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.: 37-2473D

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:**

*J. P. Speck* 4-14-11  
James P. Speck Date  
Attorney for Charles L. Matthiesen

**RESPONDENTS:**

*Craig D. Hobday* 3-8-11  
Craig D. Hobday Date  
Attorney for Big Wood Canal Company

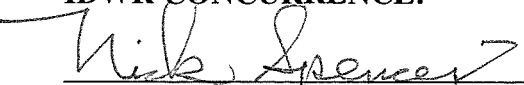
*Albert P. Barker* 4-11-11  
Albert P. Barker Date  
Attorney for Tom O'Gara, John F.  
Stevenson, Bill Molyneux, Pete Van Der  
Meulen, Grace Eakin, Gerald Bashaw, and  
Pepin Corso-Harris

**IDWR CONCURRENCE:**

  
\_\_\_\_\_  
Steve Clelland  
Sr. Water Resource Agent

4/1/11  
Date

**IDWR CONCURRENCE:**

  
\_\_\_\_\_  
Nicholas B. Spencer  
Deputy Attorney General  
Attorney for IDWR

4-5-11  
Date

02/10/2011

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

RIGHT NUMBER: 37-2473D

NAME AND ADDRESS: CHARLES L MATTHIESEN  
PO BOX 2540  
KETCHUM ID 83340

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.040 CFS  
7.700 AFY

*GPS*  
*5cc*  
*NBS*

A measuring device of a type acceptable to the Department shall be installed and permanently maintained across Dip Creek at the point where the creek enters the NESE, S23, T05N, R17E. The total combined diversion rate from ground water for right nos. 37-2473A, 37-2473B, 37-2473C, 37-2473D, 37-2473E, 37-2473F, 37-2473G, 37-2473H and 37-2473J shall not exceed the flow of Dip Creek as measured at this point, and is further limited to those times when water is available in Dip Creek to fill right nos. 37-2473A, 37-2473B, 37-2473C, 37-2473D, 37-2473E, 37-2473F, 37-2473G, 37-2473H, 37-2473J, and 37-2473K.

Right Nos. 37-2473A, 37-2473B, 37-2473C, 37-2473D, 37-2473E, 37-2473F, 37-2473G, 37-2473H, 37-2473J, and 37-2473K, when combined shall not exceed a total combined rate of diversion of 0.86 cfs or a total combined annual volume of 175.0 AF.

*CAH*

This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for irrigation purposes.

*CAH*

PRIORITY DATE: 06/24/1946

POINT OF DIVERSION:

T05N R17E S23 NESE Within BLAINE County

PURPOSE AND  
PERIOD OF USE:

| <u>PURPOSE OF USE</u> | <u>PERIOD OF USE</u> | <u>QUANTITY</u>       |
|-----------------------|----------------------|-----------------------|
| IRRIGATION            | 05/01 10/31          | 0.040 CFS<br>7.70 AFY |

PLACE OF USE: IRRIGATION in BLAINE County

|               |      |      |               |      |      |
|---------------|------|------|---------------|------|------|
| T05N R17E S23 | NESE | 1.10 | T05N R17E S24 | NWSW | 1.10 |
|---------------|------|------|---------------|------|------|

2.2 ACRES TOTAL

Right Nos. 37-2473A, 37-2473B, 37-2473C, 37-2473D, 37-2473E, 37-2473F, 37-2473G, 37-2473H, 37-2473J, and 37-2473K when combined shall not exceed a total combined irrigation of 26 acres.

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

Prior to diversion of water under this right, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion under Right Nos. 37-2473A, 37-2473B, 37-2473C, 37-2473D, 37-2473E, 37-2473F, 37-2473G, 37-2473H, 37-2473J, and 37-2473K.

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.

02/10/2011

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

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EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Failure of the right holder to comply with the conditions of ~~this~~ Transfer No. 4870 is cause for the Director to rescind approval of the transfer. *OK*

Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

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

Right No. 37-2473D is diverted and used within Lot 4, Dip Creek Ranch Subdivision.

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

*see  
NBS*

*WPS*

## CERTIFICATE OF SERVICE

I certify that on April 13, 2011, 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:

James P. Speck  
Speck & Aanestad  
P.O. Box 987  
Ketchum, ID 83340

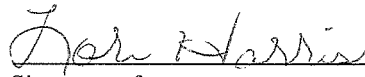
☐ Overnight Mail  
☒ Regular Mail  
☐ Hand-Delivered  
☐ Facsimile

Craig D. Hobdey  
Hobdey & Hobdey  
P.O. Box 176  
Gooding, ID 83330

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

Albert P. Barker  
Barker, Rosholt & Simpson LLP  
P.O. Box 2139  
Boise, ID 83701-2139

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

  
\_\_\_\_\_  
Signature of person or attorney mailing the form