

11607
DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

JUN 14 2011

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.: 37-577BP

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. Evan Robertson 5/31/11
Attorney for Eccles Flying Hat Ranch LLC

RESPONDENTS:

Craig D. Hobday 6-2-11
Attorney for Big Wood Canal Company

Albert P. Barker 6-8-11
Attorney for Tom O'Gara, John F.
Stevenson, Bill Molyneux, Pete Van
Der Meulen, Grace Eakin, Gerald B
Bashaw and Pepin Corso-Harris

IDWR CONCURRENCE:

Kelly K. Christensen 5-26-11
Kelly K. Christensen Date
Sr. Water Resource Agent

IDWR CONCURRENCE:

Nicholas B. Spencer 5-26-11
Nicholas B. Spencer Date
Deputy Attorney General
Attorney for IDWR

05/17/2011

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

RIGHT NUMBER: 37-577BP

NAME AND ADDRESS: ECCLES FLYING HAT RANCH LLC
PO BOX 3028
SALT LAKE CITY UT 84110

KKC NBS [signature]

SOURCE: BIG WOOD RIVER

TRIBUTARY: MALAD RIVER

QUANTITY: 7.000 CFS

Rights 37-481D, 37-482J, 37-483D, 37-577BP, 37-917, 37-11975, 37-11976, 37-11977, 37-11978, 37-2713, and 37-7356 when applied by sprinkler system shall not exceed a maximum diversion rate of 11.92 cfs and 2086.0 af at the field headgate, and when applied by surface application shall not exceed a maximum diversion rate of 23.84 cfs and 4172.0 af at the field headgate. Any portion of these rights in excess of the maximum applied rates of diversion and volumes at the field headgate shall be limited to use for conveyance losses and shall not be diverted from the river unless required for the delivery of the applied rate of water to the field headgate.

The total instantaneous diversion of water from all points of diversion under Rights 37-481D, 37-482J, 37-483D, 37-577BP, 37-917, 37-11975, 37-11976, 37-11977, 37-11978, 37-2713 and 37-7356 when combined shall not exceed 26.74 cfs and a total annual maximum diversion volume of 4172.0 af at the field headgate.

A portion of Right 37-577BP, 1.40 cfs, shall continue to be diverted into the Hiawatha Canal to mitigate the removal of Rights 37-481D, 37-482J, 37-483D, 37-577BP, 37-917, 37-11975, 37-11976, 37-11977 and 37-11978 diverted into Cove Canal and Kohler Ditch under Transfer 68526 until such time as the canal ceases operation or is otherwise no longer necessary for such mitigation. The right holder retains ownership of the 1.40 cfs portion of this right diverted into the Hiawatha Canal. The Department retains jurisdiction in this matter until June 30, 2007, to modify the diverted amount should justification for a lesser amount be provided by the right holder within that period of time.

*OK
GPS*

This right when combined with all other rights shall provide no more than 3.5 afa per acre when applied by sprinkler system and 7.0 afa per acre when applied by surface application at the field headgate for irrigation of the lands above.

PRIORITY DATE: 03/24/1883

POINT OF
DIVERSION:

T02N R18E S16 SESWNE Within BLAINE County
T02N R18E S22 SENESE Within BLAINE County
T03N R18E S20 SWNW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	5.600 CFS
MITIGATION	04/15 10/31	1.400 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T02N R18E S15	SWSE	3.00	T02N R18E S22	NENE	7.00
T02N R18E S22	NWNE	33.00	T02N R18E S22	SENE	34.00
T02N R18E S22	NESE	38.00	T02N R18E S23	SWNW	18.00
T02N R18E S23	NESW	12.00	T02N R18E S23	NWSW	40.00
T02N R18E S23	SWSW	40.00	T02N R18E S23	SESW	35.00
T02N R18E S23	SWSE	9.00	T02N R18E S23	SESE	6.00
T02N R18E S25	NWNW	28.00	T02N R18E S25	SWNW	39.00

05/17/2011

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

T02N R18E S25	SENW	5.00	T02N R18E S25	NESW	23.00
T02N R18E S25	NWSW	27.00	T02N R18E S25	SWSW	5.00
T02N R18E S25	SESW	15.00	T02N R18E S26	NENE	39.00
T02N R18E S26	NWNE	36.00	T02N R18E S26	SWNE	40.00
T02N R18E S26	SENE	35.00	T02N R18E S26	NENW	40.00
T02N R18E S26	NWNW	32.00	T02N R18E S26	SENW	36.00

MITIGATION same as IRRIGATION

675 ACRES TOTAL

Rights 37-481D, 37-482J, 37-483D, 37-577BP, 37-917, 37-11975, 37-11976, 37-11977, 37-11978, 37-2713, and 37-7356 when combined shall not exceed the irrigation of 596 acres.

Rights 37-483D and 37-577BP when combined are limited to the irrigation of 523.0 acres within the place of use described above in a single irrigation season.

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

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.

Approval of Transfer 68526 does not grant any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.

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

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

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

CERTIFICATE OF SERVICE

I certify that on June 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:

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

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

J. Evan Robertson
Robertson & Slette
134 Third Ave East
Twin Falls, ID 83303

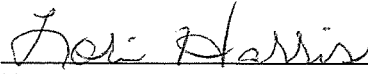
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☐ Facsimile



Signature of person or attorney mailing the form