

Claimants Names:

Marathon Partners LLC

Attorney Name & Address:

**James P. Speck, ISB#2067
Speck & Aanestad
A Professional Corporation
120 East Avenue
P. O. Box 987
Ketchum, Idaho 83340
(208) 726-4421
FAX: (208) 726-0752**

**RECEIVED
NOV 30 2011
DEPARTMENT OF
WATER RESOURCES**

**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 37-21112
Case No. 39576	)	
	)	CLAIMANT'S FIRST DISCOVERY
	)	REQUESTS TO OBJECTORS
_____	)	

TO: OBJECTORS AND THEIR ATTORNEYS OF RECORD

Pursuant to Rules 33, 34 and 36 of the Idaho Rules of Civil Procedure, Claimant, MARATHON PARTNERS LLC ("Claimant") hereby requests that you answer each of the following interrogatories, requests for production of documents and requests for admission separately and fully in writing under oath, and within thirty (30) days after service hereof.

a. Instructions:

1. In responding to these interrogatories and requests for production of documents, you are instructed to frame your responses in accordance with the instructions and definitions set forth herein, and you are required to furnish all information that is available to you, including information in the possession of your attorneys, or other persons directly or indirectly employed by or connected with you or your attorneys, and anyone else acting in your behalf or

otherwise subject to your control.

2. In responding to these interrogatories, you must make a diligent search of your records and of other papers and materials in your possession or available to you or your representatives. If you cannot obtain the records or information to answer these interrogatories, you should explain in your answer the circumstances and what has been and is being done to obtain the information.

3. If any document is withheld under claim of privilege, so as to aid the Court and the parties hereto to determine the validity of the claim of privilege, furnish a list signed by the person supervising your response identifying each document for which the privilege is claimed, together with the following information with respect to each such document:

- a. The identity of the person who signed it or over which whose name it was sent or issued, including his or her last known business and home address and phone number;
- b. The business and home addresses and phone numbers of the person to whom it was directed;
- c. The nature and substance of the document with sufficient particularity to enable the Court and parties hereto to identify the document;
- d. The date of the document;
- e. The identity of the person who has custody of, or control over, the document and each copy thereof;
- f. The identity of each other person to whom copies of the document were furnished, together with his or her job title at the time each

obtained the document;

- g. The number of pages;
- h. The basis on which any privilege is claimed;
- i. Whether any non-privileged matter is included in the document; and
- j. The number of the interrogatory to which such document corresponds.

4. If any "communication," "conversation" or "statement" is withheld under claim of privilege, so as to aid the Court and the parties hereto to determine the validity of the claim of privilege, furnish a list signed by the person supervising your response identifying each "communication," "conversation" or "statement" for which the privilege is claimed, together with the following information with respect thereto:

- k. The date of such conversation, communication or statement;
- l. The place at which it occurred and the medium involved;
- m. The persons involved, their last known business and home addresses and phone numbers and their business affiliations at the time and presently;
- n. Identify any other person who was present or to whom information regarding the privileged matter was later communicated, and the person's last known business and home addresses and phone numbers;
- o. The nature and subject matter of the conversation, communication or statement;
- p. The basis on which the privilege is claimed;

- q. Whether any nonprivileged matter was contained in the conversation, communication or statement; and
- r. The number of the interrogatory to which such conversation, communication or statement corresponds.

B. Definitions:

1. The term "person" as used herein includes any individual, firm, corporation, partnership, receiver, joint venture, estate, trust, association, and all other forms of entities, including the parties to this suit and their officers, agents, employees, and representatives.
2. The term "witness" as used herein refers to any person or persons having or claiming to have knowledge of or pertaining to the matter in question.
3. The term "document" as used herein means any writing and any other tangible thing in your custody, possession or control or known to you, whether printed, recorded, reproduced by any process, or written or produced by hand, including but not limited to letters, reports, agreements, communications, including intra-department communications, correspondence, telegrams, maps, photographs, memoranda, summaries or records of personal conversations, diaries, minutes or records of meetings, conferences, expressions or statements of policy, lists of persons attending meetings or conferences, reports and/or summaries of interviews, reports and/or summaries of investigations, opinions or reports or consultants, brochures, pamphlets, drafts of any documents, revisions of drafts of any documents, invoices, receipts and original or preliminary notes. As to each document, any comment or notation appearing on same but not a part of the original text is to be considered a separate document.
4. The words "identify" or "identity" when used herein in connection with a

person means your answer should include the person's full name, last known business and home addresses, last known business and home telephone numbers, business position and title, if any, and description of his or her duties and responsibilities connected with this position.

5. The word "identify" when used herein in connection with a document means your answer should include, but not be limited to, the following:

- a. The identity of the present custodian of the document;
- b. The date of making of the document and the identity of each person whose testimony could be used to authenticate such document and lay the foundation for its introduction into evidence.

6. The term "statement" as used herein refers to each recording of an interview or conversation with a witness, whether by a signed or unsigned document, recording, court reported statement or otherwise.

7. The term "conversation" as used herein refers to any manner of oral communication regardless of the medium by which such communication occurred.

8. The term "communication" as used herein refers to any contact, oral or written, formal or informal, at any time or place, and under any circumstances whatever in which information of any nature was transmitted, received or transferred, including all conversations, statements and document exchanges of any type.

9. In each case wherein you are requested to identify a "conversation," "communication," or "statement," or if the answer to an interrogatory refers to a "conversation," "communication," or "statement," you should state with respect thereto the date and place of such conversation, communication, or statement, the identities of each person participating in or

witnessing such conversation, communication or statement, the contents and subject matter of such conversation, communication or statement, and the identity of any other person who, though not participating or present at the time, possesses or purports to possess information concerning the existence or nature of said conversation, communication or statement.

10. The word "you" as used herein includes you, your agents, employees, attorneys or other persons directly or indirectly employed by or connected with you or your attorneys, and anyone else acting in your behalf or otherwise subject to your control.

11. The term "Water Right" as used herein refers to Water Right No. 37-21112 as recommended in the Director's Report filed herein in February 2007.

INTERROGATORIES

THESE INTERROGATORIES ARE CONTINUING, AND IF ANY ADDITIONAL INFORMATION IS RECEIVED BY YOU AFTER GIVING YOUR ANSWERS TO THE FOREGOING INTERROGATORIES, YOU ARE REQUIRED TO SUBMIT SUCH ADDITIONAL INFORMATION TO DEFENDANTS.

INTERROGATORY NO. 1: Identify each person who participated in preparing the responses to these Interrogatories and Requests for Production of Documents.

INTERROGATORY NO. 2: Please state the name, address and telephone number of each and every person having or purporting to have knowledge of any of the facts of this matter.

INTERROGATORY NO. 3: Please identify any experts or consultants with whom you or your attorneys or representatives have consulted in connection with this action. For each such consultant or expert, please state:

- a. The business address and business entity with which such person is associated;

- b. The person's profession, education, background, training and specific area of knowledge;
- c. The dates and purpose each such person was contacted;
- d. Whether any such person prepared a report, its date, its substance and the person who has possession of such report, if written;
- e. What evidence was provided to such person in relation with such consultation; and
- f. Whether each such person is expected to testify at the trial of this matter, and if so, the substance and factual basis of his or her expected testimony.

INTERROGATORY NO. 4: Please state the name, address and telephone number of all witnesses you intend to call or may call at the trial of this matter and specify the facts to which each will testify.

INTERROGATORY NO. 5: Please state all facts and identify all documents which support the statement in Section D.3 of the Objection you filed herein (the "Objection") that reads, "Diversion rate excessive for POU" and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting these allegations.

INTERROGATORY NO. 6 If you are going to assert at the trial of this matter that the partial decree for the Water Right should include a remark which modifies or affects in any way the quantity element, for each such asserted remark please:

- a. Provide the asserted remark.
- b. State in detail how such remark is necessary for the definition of the Water Right.
- c. State in detail how such remark is necessary for the clarification of any element of the Water Right.

d. State in detail how such remark is necessary for the administration of the Water Right by the Watermaster of Water District 37 and/or the Idaho Department of Water Resources.

e. Identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting these allegations.

INTERROGATORY NO. 7. If you do not fully admit the matter set forth in Request for Admission No. 1, below, please state all facts and identify all documents which support your answer or objection to such Request and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting your answer or objection.

INTERROGATORY NO. 8. If you do not fully admit the matter set forth in Request for Admission No. 2, below, please state all facts and identify all documents which support your answer or objection to such Request and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting your answer or objection.

INTERROGATORY NO. 9. If you do not fully admit the matter set forth in Request for Admission No. 3, below, please state all facts and identify all documents which support your answer or objection to such Request and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting your answer or objection.

INTERROGATORY NO. 10. If you do not fully admit the matter set forth in Request for Admission No. 4, below, please state all facts and identify all documents which support your

answer or objection to such Request and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting your answer or objection.

INTERROGATORY NO. 11. If you do not fully admit the matter set forth in Request for Admission No. 5, below, please state all facts and identify all documents which support your answer or objection to such Request and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting your answer or objection.

INTERROGATORY NO. 12. If you do not fully admit the matter set forth in Request for Admission No. 6, below, please state all facts and identify all documents which support your answer or objection to such Request and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting your answer or objection.

INTERROGATORY NO. 13. If you do not fully admit the matter set forth in Request for Admission No. 7, below, please state all facts and identify all documents which support your answer or objection to such Request and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting your answer or objection.

INTERROGATORY NO. 14. If you do not fully admit the matter set forth in Request for Admission No. 8, below, please state all facts and identify all documents which support your answer or objection to such Request and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts

supporting your answer or objection.

INTERROGATORY NO. 15. If you do not fully admit the matter set forth in Request for Admission No. 9, below, please state all facts and identify all documents which support your answer or objection to such Request and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting your answer or objection.

INTERROGATORY NO. 16. If you do not fully admit the matter set forth in Request for Admission No. 10, below, please state all facts and identify all documents which support your answer or objection to such Request and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting your answer or objection.

INTERROGATORY NO. 17. If you do not fully admit the matter set forth in Request for Admission No. 11, below, please state all facts and identify all documents which support your answer or objection to such Request and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting your answer or objection.

INTERROGATORY NO. 18. If you do not fully admit the matter set forth in Request for Admission No. 12, below, please state all facts and identify all documents which support your answer or objection to such Request and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting your answer or objection.

INTERROGATORY NO. 19. If you do not fully admit the matter set forth in Request

for Admission No. 13, below, please state all facts and identify all documents which support your answer or objection to such Request and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting your answer or objection.

INTERROGATORY NO. 20. If you do not fully admit the matter set forth in Request for Admission No. 14, below, please state all facts and identify all documents which support your answer or objection to such Request and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting your answer or objection.

INTERROGATORY NO. 21. If you do not fully admit the matter set forth in Request for Admission No. 15, below, please state all facts and identify all documents which support your answer or objection to such Request and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting your answer or objection.

REQUESTS FOR PRODUCTION OF DOCUMENTS

Pursuant to Rule 34 of the Idaho Rules of Civil Procedure, Defendants hereby request that you produce for inspection, examination and copying the documents hereinafter specified at the law offices of Speck & Aanestad, 120 East Avenue North, Ketchum, Idaho, within thirty (30) days from the date of service of this First Request for Production of Documents upon you.

REQUEST FOR PRODUCTION NO. 1 All documents identified in your Answer to Interrogatory No. 5.

REQUEST FOR PRODUCTION NO. 2 All documents identified in your Answer to Interrogatory No. 6.

REQUEST FOR PRODUCTION NO. 3 All documents which you intend to offer into evidence at the trial of this action.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1 Admit that attached hereto as Exhibit 1 is a true and correct copy of the Standard Form 5 - Stipulated Elements of a Water Right which your attorney signed and filed in Subcase 37-21123.

REQUEST FOR ADMISSION NO. 2 Admit that attached hereto as Exhibit 2 is a true and correct copy of the Order of Partial Decree issued in the SRBA for Water Right 37-21123.

REQUEST FOR ADMISSION NO. 3 Admit that attached hereto as Exhibit 3 is a true and correct copy of the Standard Form 5 - Stipulated Elements of a Water Right which your attorney signed and filed in Subcase 37-21125.

REQUEST FOR ADMISSION NO. 4 Admit that attached hereto as Exhibit 4 is a true and correct copy of the Order of Partial Decree issued in the SRBA for Water Right 37-21125.

REQUEST FOR ADMISSION NO. 5 Admit that the map attached hereto as Exhibit 5 depicts the locations of the respective places of use recommended for the Water Right and decreed for 37-21123 and 37-21125.

REQUEST FOR ADMISSION NO. 6 Admit that 37-21123, 37-21125 and the Water Right are all delivered to their respective places of use through the Hiawatha Canal.

REQUEST FOR ADMISSION NO. 7 Admit that the diversion rate set forth in both

the SF5 and Partial Decree for 37-21123 is 0.048 cfs per acre.

REQUEST FOR ADMISSION NO. 8 Admit that the diversion rate set forth in both the SF5 and Partial Decree for 37-21125 is 0.039 cfs per acre.

REQUEST FOR ADMISSION NO. 9 Admit that attached hereto as Exhibit 6 is a true and correct copy of the Objection you filed in Subcase 37-21114.

REQUEST FOR ADMISSION NO. 10 Admit that attached hereto as Exhibit 7 is a true and correct copy of the Standard Form 5 - Stipulated Elements of a Water Right which your attorney signed and filed in Subcase 37-21114.

REQUEST FOR ADMISSION NO. 11 Admit that attached hereto as Exhibit 8 is a true and correct copy of the Order of Partial Decree issued in the SRBA for Water Right 37-21114.

REQUEST FOR ADMISSION NO. 12 Admit that the irrigation diversion rate set forth in both the SF5 and Partial Decree for 37-21114 is 0.025 cfs per acre. 37-21114.

REQUEST FOR ADMISSION NO. 13 Admit that the Water Right and Water Right 37-21114 are splits of the same parent water right which was 37-12818A.

DATED this 28 day of November, 2011.

SPECK & AANESTAD
A Professional Corporation

By 
James P. Speck

CERTIFICATE OF SERVICE

I hereby certify that on the 28 day of November, 2011, I served a true and correct copy of the foregoing NOTICE OF APPEARANCE on the following persons in the manner designated below:

Chief, Natural Resources Division
Office of the Attorney General, State of Idaho
P. O. Box 44449
Boise, ID 83711-4449

- ☒ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid

The United States Department of Justice
Environmental and Natural Resources
Division
550 West Fort Street
Box 33
Boise, ID 83724

- ☒ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid

Idaho Department of Water Resources
Document Depository
P.O. Box 83720
Boise, ID 83720-0098

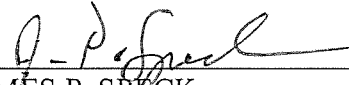
- ☒ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid

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

- ☐ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☒ Facsimile, with copy by United States Mail, Postage Prepaid

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

- ☐ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☒ Facsimile, with copy by United States Mail, Postage Prepaid



JAMES P. SPECK

1524

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____
2009 SEP 24 AM 10 16

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. 37-21123
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

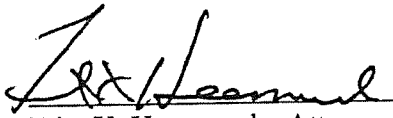
This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

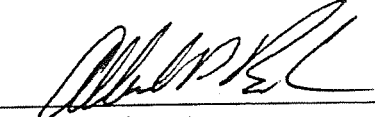
The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions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

CLAIMANTS/RESPONDENTS:
James W. & Evelyn Phillips

OBJECTORS:
Concerned Water Users


Fritz X. Haemmerle, Attorney
8/13/09 Date


Albert Barker, Attorney
8/25/09 Date

STANDARD FORM 5 - 37-21123

EXHIBIT 1

OBJECTORS:

Big Wood Canal Company

RESPONDENT:

Barker Living Trust, et al

Craig D. Hobdey 9-16-09
Craig D. Hobdey, Attorney Date

J. P. Speck 9-11-09
James Speck, Attorney Date

RESPONDENT:

Newfoundland Partners

RESPONDENT:

Sinclair Oil Corporation

Scott Campbell 9/02/09
Scott Campbell, Attorney Date

Scott Campbell 9/02/09
Scott Campbell, Attorney Date

IDWR Concurrence:

Keely Christensen 9-18-09
IDWR Agent Date

Deputy Attorney General 9/17/09
Deputy Attorney General, IDWR Date

CERTIFICATE OF MAILING

I certify that on 9/23, 2009, 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

SINCLAIR OIL CORPORATION
Represented by:
ANDREW J WALDERA
101 S CAPITOL BLVD 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829

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

EVELYN PHILLIPS
JAMES & EVELYN PHILLIPS
JAMES W PHILLIPS

Represented by:
HAEMMERLE, FRITZ X.
PO BOX 1800
HAILEY, ID 83333

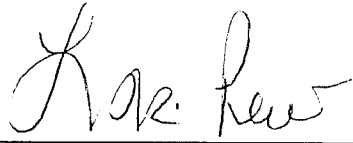
BARKER LIVING TRUST
CHANEY CREEK RANCH LLC
CHARLES L MATTHIESEN
CHARLES T FOLEY
EAGLE CREEK IRRIGATION CO
ECD INC
ELISE G LUFKIN
GIMLET PROPERTY OWNERS ASSN
GREGORY RANCH LLC
LAKE CREEK MEADOWS HOMEOWNERS
MICHAEL E WILLARD
MICHAEL ENGL
MYER BERLOW
RALPH W & KANDI L GIRTON
RIVER ROCK RANCH LP
RIVERS EDGE ASSOCIATES LLC
ROY R WOODS
STEVEN D HOLZMAN TRUST
THE GULCH TRUST
THE R DANIEL OLMSTEAD
WILLIAM B GORDON

Represented by:
JAMES P. SPECK
SPECK & AANESTAD
120 EAST AVENUE
PO BOX 987
KETCHUM, ID 83340

NEWFOUNDLAND PARTNERS
SINCLAIR OIL CORPORATION

Represented by:
SCOTT L CAMPBELL
101 S CAPITOL BLVD 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829

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

A handwritten signature in cursive script, appearing to read "K. R. Lewis", written in dark ink.

Signature of person or attorney mailing the form

07/23/2009

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

RIGHT NUMBER: 37-21123

NAME AND ADDRESS: EVELYN PHILLIPS
PO BOX 864
HAILEY ID 83333

JAMES W PHILLIPS
PO BOX 864
HAILEY ID 83333

SOURCE: BIG WOOD RIVER

TRIBUTARY: MALAD RIVER

QUANTITY: 0.300 CFS

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

PRIORITY DATE: 03/24/1883

POINT OF
DIVERSION:

T03N R18E S20 SWNW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	04/15 10/31	0.020 CFS
RECREATION	04/15 10/31	0.300 CFS
IRRIGATION	04/15 10/31	0.300 CFS
AESTHETIC	04/15 10/31	0.300 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T02N R18E S10 NENW 1.70 T02N R18E S10 SENW 4.60

STOCKWATER in BLAINE County

T02N R18E S10 NENW T02N R18E S10 SENW

RECREATION in BLAINE County

T02N R18E S10 NENW T02N R18E S10 SENW

AESTHETIC in BLAINE County

T02N R18E S10 NENW T02N R18E S10 SENW

6.3 ACRES TOTAL

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.

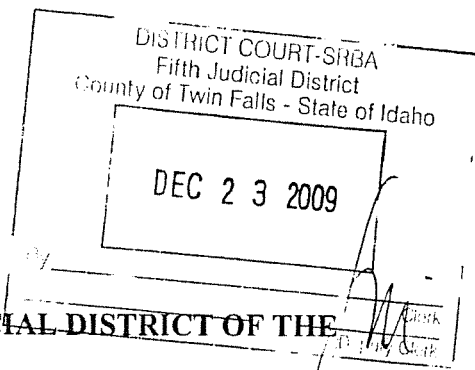
EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

PROPERTY IS ALSO KNOWN AS LOT 3, BLK 1, MARVIN GARDENS
SUBDIVISION.

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 37-577CD.

JPB
SLC
CPS
C#
CB

KKC



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	)	ORDER OF PARTIAL DECREE
	)	
Case No. 39576	)	Subcase No. 37-21123
	)	(Phillips)
	)	

On October 8, 2009, a *Special Master's Report and Recommendation* was filed for the above-captioned water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report and Recommendation* and wholly adopts them as its own.

Therefore, IT IS ORDERED that the above-captioned water right be decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED December 23, 2009.

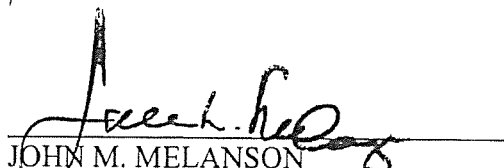

JOHN M. MELANSON
Presiding Judge, pro tem
Snake River Basin Adjudication

EXHIBIT 2

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)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 37-21123

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

DEC 23 2009

NAME AND ADDRESS: EVELYN PHILLIPS
JAMES W PHILLIPS
PO BOX 864
HAILEY, ID 83333

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 0.30 CFS

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

PRIORITY DATE: 03/24/1883

POINT OF DIVERSION: T03N R18E S20 SWNW Within Blaine County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	0.30 CFS
	Stockwater	04-15 TO 10-31	0.02 CFS

PLACE OF USE: Irrigation
T02N R18E S10 NENW 1.7 Within Blaine County
6.3 Acres Total SENW 4.6

Stockwater
T02N R18E S10 NENW Within Blaine County
SENW

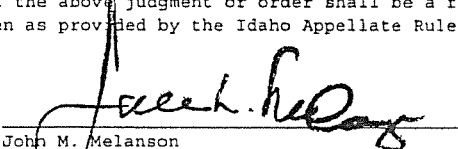
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance
with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a
final judgment and that the court has and does hereby direct that the above judgment or order shall be a final
judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

2009 DEC 23 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 37-21123

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 37-21123 was mailed
on December 23, 2009, with sufficient first-class postage prepaid
to the following:

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

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
Phone: 208-336-0700

CERTIFICATE OF MAILING

PAGE 1
12/23/09

SINCLAIR OIL CORPORATION

Represented by:
ANDREW J WALDERA
101 S CAPITOL BLVD 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829
Phone: 208-345-2000

BIG WOOD CANAL CO
BIG WOOD CANAL COMPANY

Represented by:
CRAIG D. HOBDEY
125 5TH AVE
PO BOX 176
GOODING, ID 83330
Phone: 208-934-4429

EVELYN PHILLIPS
JAMES & EVELYN PHILLIPS
JAMES W PHILLIPS

Represented by:
HAEMMERLE, FRITZ X.
PO BOX 1800
HAILEY, ID 83333
Phone: 208-578-0520

CERTIFICATE OF MAILING

PAGE 2
12/23/09

BARKER LIVING TRUST
CHANNEY CREEK RANCH LLC
CHARLES L MATTHIESEN
CHARLES T FOLEY
EAGLE CREEK IRRIGATION CO
ECD INC
ELISE G LUFKIN
GIMLET PROPERTY OWNERS ASSN
GREGORY RANCH LLC
LAKE CREEK MEADOWS HOMEOWNERS
MICHAEL E WILLARD
MICHAEL ENGL
MYER BERLOW
RALPH W & KANDI L GIRTON
RIVER ROCK RANCH LP
RIVERS EDGE ASSOCIATES LLC
ROY R WOODS
STEVEN D HOLZMAN TRUST
THE GULCH TRUST
THE R DANIEL OLMSTEAD
WILLIAM B GORDON

Represented by:
JAMES P. SPECK
SPECK & AANESTAD
120 EAST AVENUE
PO BOX 987
KETCHUM, ID 83340
Phone: 208-726-4421

NEWFOUNDLAND PARTNERS
SINCLAIR OIL CORPORATION
Represented by:
SCOTT L CAMPBELL
101 S CAPITOL BLVD 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829
Phone: 208-345-2000

JULIE MURPHY
Chief Deputy Clerk

1672

DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO
FILED _____

2009 SEP 24 AM 10 16

**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. 37-21125
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
_____	)	WATER RIGHT

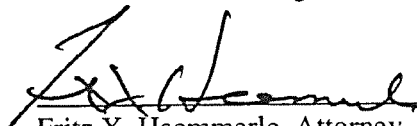
This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary 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.

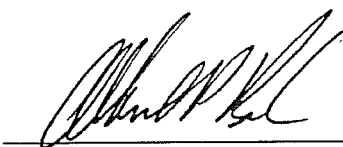
**CLAIMANTS/OBJECTORS/
RESPONDENTS:**

Carol & Howard Knight

 8/13/09
Fritz X. Haemmerle, Attorney Date

OBJECTORS:

Concerned Water Users

 8/25/09
Albert Barker, Attorney Date

STANDARD FORM 5 – 37-21125

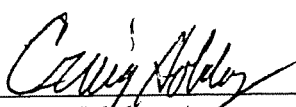
EXHIBIT 3

OBJECTORS:

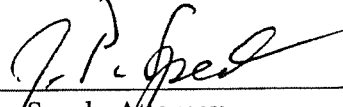
Big Wood Canal Company

RESPONDENT:

Barker Living Trust, et al

 9-16-09

Craig D. Hobdey, Attorney Date

 1-11-09

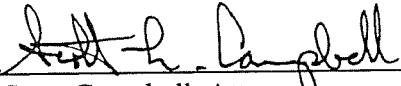
James Speck, Attorney Date

RESPONDENT:

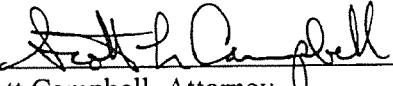
Newfoundland Partners

RESPONDENT:

Sinclair Oil Corporation

 1/02/09

Scott Campbell, Attorney Date

 1/02/09

Scott Campbell, Attorney Date

IDWR Concurrence:

 9-18-09

IDWR Agent Date

 9/17/09

Deputy Attorney General, IDWR Date

CERTIFICATE OF MAILING

I certify that on 9/23, 2009, 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

SINCLAIR OIL CORPORATION
Represented by:
ANDREW J WALDERA
101 S CAPITOL BLVD 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829

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

CAROL KNIGHT
HOWARD & CAROL KNIGHT
HOWARD KNIGHT

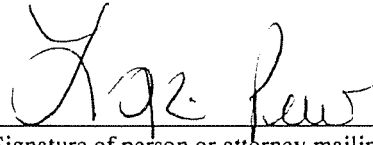
Represented by:
HAEMMERLE, FRITZ X.
PO BOX 1800
HAILEY, ID 83333

BARKER LIVING TRUST
CHANEY CREEK RANCH LLC
CHARLES L MATTHIESEN
CHARLES T FOLEY
EAGLE CREEK IRRIGATION CO
ECD INC
ELISE G LUFKIN
GIMLET PROPERTY OWNERS ASSN
GREGORY RANCH LLC
LAKE CREEK MEADOWS HOMEOWNERS
MICHAEL E WILLARD
MICHAEL ENGL
MYER BERLOW
RALPH W & KANDI L GIRTON
RIVER ROCK RANCH LP
RIVERS EDGE ASSOCIATES LLC
ROY R WOODS
STEVEN D HOLZMAN TRUST
THE GULCH TRUST
THE R DANIEL OLMSTEAD
WILLIAM B GORDON

Represented by:
JAMES P. SPECK
SPECK & AANESTAD
120 EAST AVENUE
PO BOX 987
KETCHUM, ID 83340

NEWFOUNDLAND PARTNERS
SINCLAIR OIL CORPORATION
Represented by:
SCOTT L CAMPBELL
101 S CAPITOL BLVD 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829

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

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

Signature of person or attorney mailing the form

07/23/2009

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

RIGHT NUMBER: 37-21125
NAME AND ADDRESS: CAROL KNIGHT
PO BOX 774
HAILEY ID 83338
HOWARD KNIGHT
PO BOX 774
HAILEY ID 83338

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER
QUANTITY: 0.070 CFS
PRIORITY DATE: 03/24/1883

POINT OF DIVERSION:
T03N R18E S20 SWNW Within BLAINE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.070 CFS
RECREATION	04-15 TO 10-31	0.07 CFS
AESTHETIC	04-15 TO 10-31	0.07 CFS

PLACE OF USE: IRRIGATION in BLAINE County
T02N R18E S10 SENW 1.80
RECREATION in BLAINE County
T02N R18E S10 SENW
AESTHETIC in BLAINE County
T02N R18E S10 SENW

1.8 ACRES TOTAL

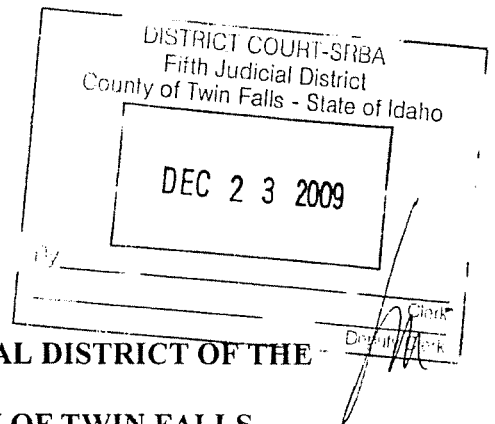
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

PROPERTY IS ALSO KNOWN AS LOT 6, BLK 1, MARVIN GARDENS SUBDIVISION.

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 37-577CD.



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

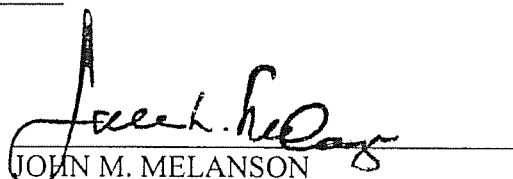
In Re SRBA	)	ORDER OF PARTIAL DECREE
	)	
Case No. 39576	)	Subcase No. 37-21125
	)	(Knight)
_____	)	

On October 8, 2009, a *Special Master's Report and Recommendation* was filed for the above-captioned water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report and Recommendation* and wholly adopts them as its own.

Therefore, IT IS ORDERED that the above-captioned water right be **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED December 23, 2009.


JOHN M. MELANSON
Presiding Judge, pro tem
Snake River Basin Adjudication

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)
)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 37-21125

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

DEC 23 2009

NAME AND ADDRESS: CAROL KNIGHT
HOWARD KNIGHT
PO BOX 774
HAILEY, ID 83338

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 0.07 CFS

PRIORITY DATE: 03/24/1993

POINT OF DIVERSION: T03N R18E S20 SWNW Within Blaine County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	0.07 CFS

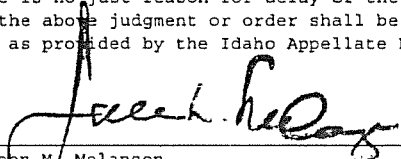
PLACE OF USE: Irrigation Within Blaine County
T02N R18E S10 SENW 1.8
1.8 Acres Total

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

2009 DEC 23 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 37-21125

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 37-21125 was mailed
on December 23, 2009, with sufficient first-class postage prepaid
to the following:

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

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
Phone: 208-336-0700

CERTIFICATE OF MAILING

PAGE 1
12/23/09

SINCLAIR OIL CORPORATION

Represented by:
ANDREW J WALDERA
101 S CAPITOL BLVD 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829
Phone: 208-345-2000

BIG WOOD CANAL COMPANY

Represented by:
CRAIG D. HOBDEY
125 5TH AVE
PO BOX 176
GOODING, ID 83330
Phone: 208-934-4429

CAROL KNIGHT
HOWARD & CAROL KNIGHT
HOWARD KNIGHT

Represented by:
HAEMMERLE, FRITZ X.
PO BOX 1800
HAILEY, ID 83333
Phone: 208-578-0520

CERTIFICATE OF MAILING

PAGE 2
12/23/09

BARKER LIVING TRUST
CHANEY CREEK RANCH LLC
CHARLES L MATTHIESEN
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RIVER ROCK RANCH LP
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ROY R WOODS
STEVEN D HOLZMAN TRUST
THE GULCH TRUST
THE R DANIEL OLMSTEAD
WILLIAM B GORDON

Represented by:
JAMES P. SPECK
SPECK & AANESTAD
120 EAST AVENUE
PO BOX 987
KETCHUM, ID 83340
Phone: 208-726-4421

NEWFOUNDLAND PARTNERS
SINCLAIR OIL CORPORATION
Represented by:
SCOTT L CAMPBELL
101 S CAPITOL BLVD 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829
Phone: 208-345-2000

JULIE MURPHY
Chief Deputy Clerk

IDWR Mapping Tool

Marathon Partners - 37-21112

[IDWR Home](#)

[IDWR GIS](#)

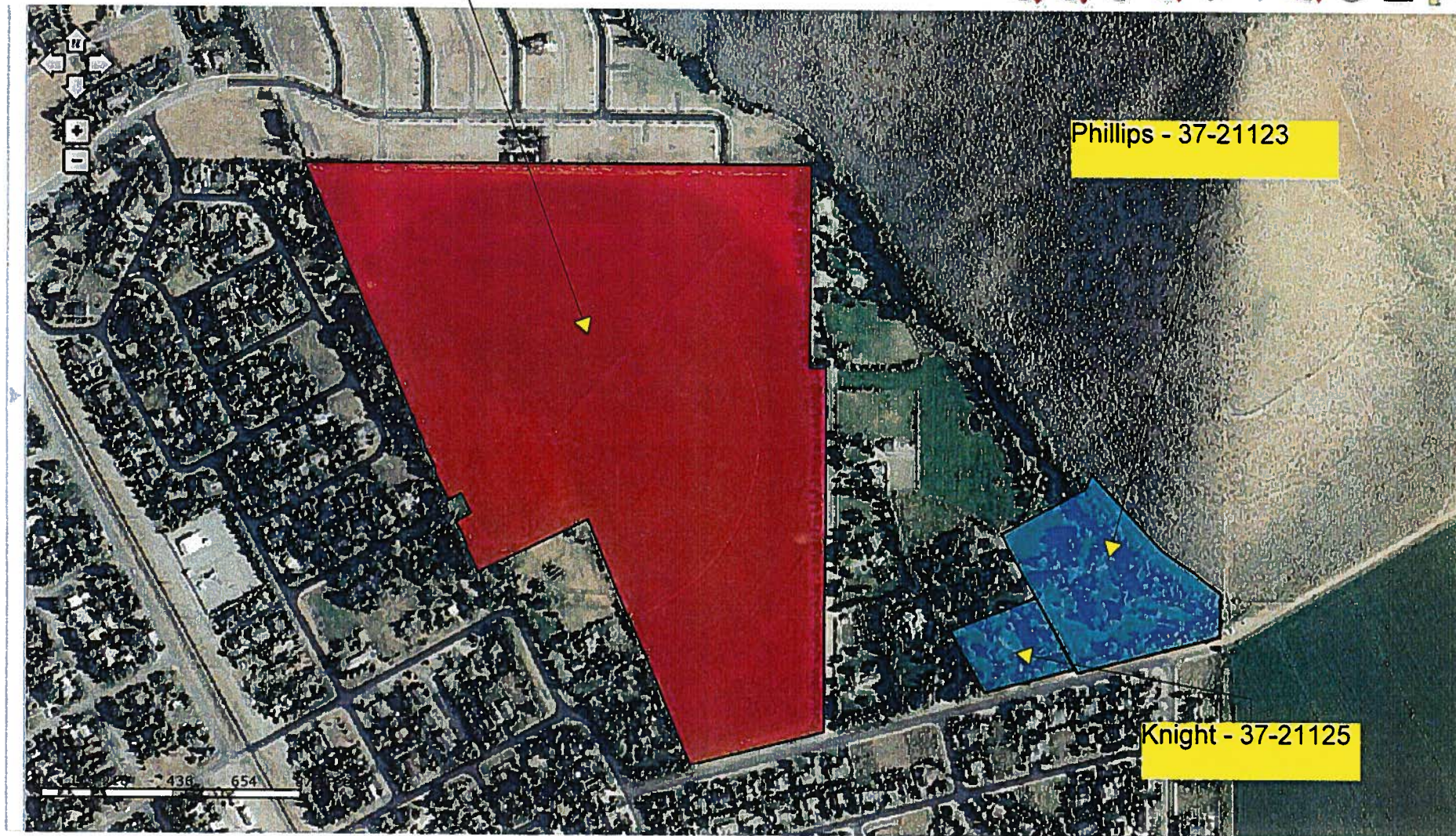


EXHIBIT 5

SCANNED
NOV 3 2011

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) A. Subcase No. 37-21114
)
Case No. 39576) STANDARD FORM 1
) OBJECTION
)
_____)

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING:

Tom O'Gara	Big Wood Canal Company
John F. Stevenson	112 South Apple Street
Bill Molyneux	Shoshone, ID 83352
Pete Van Der Meulen	
Grace Eakin	
Rocky Sherbine	
Gerald Bashaw	
Pepin Corso-Harris	
c/o Concerned Water Users	
P.O. Box 1200	
Bellevue, ID 83313	

Name and Address of Attorney, if any:

Albert P. Barker	Craig Hobdey
Barker, Rosholt & Simpson, LLP	Hobdey & Hobdey
P.O. Box 2139	P.O. Box 176
Boise, ID 83701	Gooding, ID 83330
Telephone: (208) 336-0700	Telephone: (208) 934-4420
Attorney for O'Gara, Stevenson,	Attorney for Big Wood Canal Company
Molyneux, Van Der Meulen, Eakin,	
Sherbine & Bashaw	

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT:

Name: Blaine County School District #61
Address: 118 West Bullion Street
Hailey, ID 83333

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate boxes):

1. ☐ Name and Address
Should be:
2. ☐ Source
Should be:
3. ☒ Quantity
Should be: Diversion rate excessive for POU
4. ☐ Priority Date
Should be:
5. ☐ Point(s) of Diversion
Should be:
6. ☐ Instream Flow Beginning and Ending Point
Should be:
7. ☐ Purpose(s) of Use
Should be:
8. ☐ Period of Year
Should be:
9. ☐ Place of Use
Should be:
10. ☒ I object because:

☒ This water right should not exist
☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S):

Right has been forfeited for non-use or abandoned.

Tom O'Gara
John F. Stevenson
Bill Molyneux
Pete Van Der Meulen
Grace Eakin
Rocky Sherbine
Gerald Bashaw
Pepin Corso-Harris

Big Wood Canal Company

By: [Signature]
Albert P. Barker, Attorney

By: [Signature]
Craig Hobdey, Attorney

F.

VERIFICATION

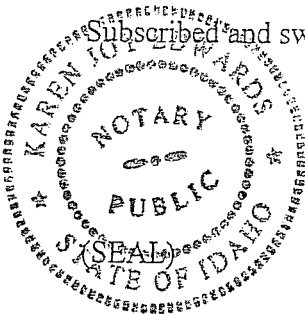
State of IDAHO)
) ss.
County of Ada)

Albert P. Barker, duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6), or that I am the attorney for the party/claimant objecting, and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge, and I have been expressly authorized to sign this objection on behalf of the attorney for Big Wood Canal Company.

(Signature of person filing objection)

[Signature]
(Attorney signing in representative capacity)



Subscribed and sworn to before me on: November 14, 2007

Karen Joy Edwards
Notary Public for: Idaho
Residing at: Boise
My Commission Expires: 8/2/2012

INSTRUCTIONS FOR MAILING

You must mail the objection to the Clerk of the Court. **Fax filings will not be accepted.**
You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on November 1⁴, 2007, I hand-delivered and mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original hand-delivered to:

Clerk of the District Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, ID 83303-2707

2. One copy mailed to the claimant of the water right at the following address:

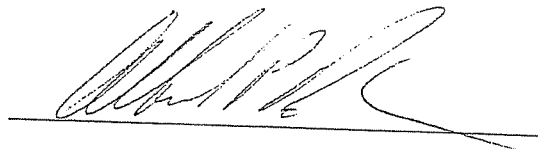
Name: Blaine County School District #61
Address: 118 West Bullion Street
Hailey, ID 83333

3. Copies mailed to:

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

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment & Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724



1013

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

MAR - 4 2011

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. 37-21114
	)	
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.

CLAIMANTS/RESPONDENTS:
Blaine County School District

OBJECTORS:
Concerned Water Users

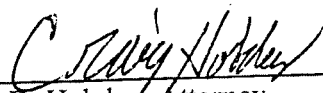
James Speck, Attorney 2-11-11
Date

Albert Barker, Attorney 2-23-11
Date

STANDARD FORM 5 - 37-21114

OBJECTORS:

Big Wood Canal Company

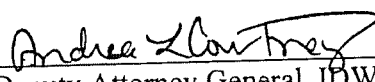


Craig D. Hobday, Attorney Date

IDWR Concurrence:

 3/2/11

IDWR Agent Date

 3/2/11

Deputy Attorney General, IDWR Date

CERTIFICATE OF MAILING

I certify that on March 3, 2011, 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

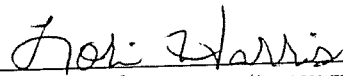
Represented by:
ALBERT P BARKER
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

BIG WOOD CANAL COMPANY
Represented by:
CRAIG D. HOBDEY
125 5TH AVE
PO BOX 176
GOODING, ID 83330
Phone: 208-934-4429

BLAINE COUNTY SCHOOL DISTRICT

Represented by:
JAMES P. SPECK
SPECK & AANESTAD
120 EAST AVENUE
PO BOX 987
KETCHUM, ID 83340
Phone: 208-726-4421

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



Signature of person or attorney mailing the form

02/03/2011

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

RIGHT NUMBER: 37-21114

NAME AND ADDRESS: BLAINE COUNTY SCHOOL DISTRICT #61
118 W BULLION ST
HAILEY ID 83333

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

The portion of this right committed to mitigation for the diversion of water right 37-21177 is 0.08 cfs. This portion of the right shall be managed as a surface water diversion, and the pump for right ~~37-21114~~ 37-21177 shall be the regulating structure for management. When the pump is on, the portion of this right mitigating for water right 37-21177 shall be considered as a constant diversion from the Big Wood River.

QUANTITY: 1.060 CFS

This right mitigates for the depletion of water resulting from the diversion and use of water under Rights 37-8821 and ~~37-21114~~ 37-21177. To prevent injury to other water right holders, the right holder shall cease diverting and using 0.68 cfs of this right, which shall remain undiverted in the Big Wood River.

If the mitigation portion of this right is used for any purpose other than conveyance loss, then water shall not be diverted under Rights 37-8821 and ~~37-21114~~ 37-21177. If the mitigation portion of this right is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under the uses of Rights 37-8821 and ~~37-21114~~ 37-21177 that are being mitigated shall be reduced by the same proportion as the reduction to this right.

PRIORITY DATE: 03/24/1883

POINT OF
DIVERSION:

T02N R18E S22 NESESE Within BLAINE County
T03N R18E S20 SWNW Within BLAINE County

The point of diversion for the 0.08 cfs of this right committed to mitigation for right ~~37-21177~~ 37-21177 shall be the location on the Big Wood River within the NESESE, Section 22, Twp. 2N, Rge. 18E, B.M., which is the point on the river closest to the point of diversion for right 37-21177.

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.380 CFS
MITIGATION	04/15 10/31	0.680 CFS

PLACE OF USE:

IRRIGATION in BLAINE County

T02N R18E S10	SENW	7.7 7.80	T02N R18E S10	NESW	5.3 7.20
---------------	------	----------	---------------	------	----------

MITIGATION in BLAINE County

T02N R18E S10	SENW	T02N R18E S10	NESW
---------------	------	---------------	------

13 15 ACRES TOTAL

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

The portion of Right 37-21114 (portion of water right no. 37-0577) used

GPS
and

Sec

AZ

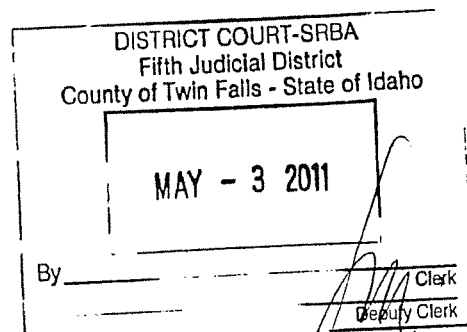
for mitigation purposes shall be listed as a consumptive right in the water district decree book for the Big Wood River above Magic Reservoir. The mitigating flow amount of Right 37-21114 (portion of water right no. 37-0577) shall be administered as a Big Wood River surface right, with the point of diversion considered as the location on the river closest to the point of diversion for permit 37-21177, as described in the permit. The right shall be considered delivered, or on, when the pump for permit 37-21177 is in 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

ATC

32



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

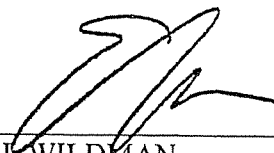
In Re SRBA	)	ORDER OF PARTIAL DECREE
	)	
Case No. 39576	)	Subcase No. 37-21114
	)	(Blaine County School District #61)
_____	)	

On March 30, 2011, a *Special Master's Report and Recommendation* was filed for the above-captioned water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report and Recommendation* and wholly adopts them as its own.

Therefore, IT IS ORDERED that the above-captioned water right be decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED May 3, 2011.



ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

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)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 37-21114

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

MAY - 3 2011

By _____ Clerk
_____ Deputy Clerk

NAME AND ADDRESS: BLAINE COUNTY SCHOOL DISTRICT
#61
118 W BULLION ST
HAILEY, ID 83333

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

The portion of this right committed to mitigation for the diversion of water right 37-21177 is 0.08 cfs. This portion of the right shall be managed as a surface water diversion, and the pump for right 37-21177 shall be the regulating structure for management. When the pump is on, the portion of this right mitigating for water right 37-21177 shall be considered as a constant diversion from the Big Wood River.

QUANTITY: 1.06 CFS

This right mitigates for the depletion of water resulting from the diversion and use of water under Rights 37-8821 and 37-21177. To prevent injury to other water right holders, the right holder shall cease diverting and using 0.68 cfs of this right, which shall remain undiverted in the Big Wood River. If the mitigation portion of this right is used for any purpose other than conveyance loss, then water shall not be diverted under Rights 37-8821 and 37-21177. If the mitigation portion of this right is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under the uses of Rights 37-8821 and 37-21177 that are being mitigated shall be reduced by the same proportion as the reduction to this right.

PRIORITY DATE: 03/24/1883

POINT OF DIVERSION: T02N R18E S22 NESESE Within Blaine County
T03N R18E S20 SWNW

The point of diversion for the 0.08 cfs of this right committed to mitigation for right 27-21177 shall be the location on the Big Wood River within the NESESE, Section 22, Twp. 2N, Rge. 18E, Boise Meridian, which is the point on the river closest to the point of diversion for right 37-21177.

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	0.38 CFS
	Mitigation	04-15 TO 10-31	0.68 CFS

PLACE OF USE:	Irrigation	Within Blaine County
	T02N R18E S10 SENW 7.8 15.0 Acres Total	NESW 7.2
	Mitigation	Within Blaine County
	T02N R18E S10 SENW	NESW

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

The portion of Right 37-21114 (portion of water right no. 37-0577) used for mitigation purposes shall be listed as a

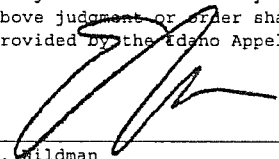
OTHER PROVISIONS (continued)

consumptive right in the water district decree book for the Big Wood River above Magic Reservoir. The mitigating flow amount of Right 37-21114 (portion of water right no. 37-0577) shall be administered as a Big Wood River surface right, with the point of diversion considered as the location on the river closest to the point of diversion for permit 37-21177, as described in the permit. The right shall be considered delivered, or on, when the pump for permit 37-21177 is in 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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

2011 MAY 03 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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	)	CERTIFICATE OF MAILING
	)	
Case No. 39576	)	
_____	)	Water Right(s): 37-21114

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 37-21114 was mailed
on May 03, 2011, with sufficient first-class postage prepaid
to the following:

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

BILL MOLYNEUX
GERALD BASHAW
GRACE EAKIN
JOHN F STEVENSON
PEPIN CORSO-HARRIS
PETE VAN DER MEULEN
ROCKY SHERBINE
TOM O GARA

Represented by:
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1010 W JEFFERSON, STE 102
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BOISE, ID 83701-2139
Phone: 208-336-0700

CERTIFICATE OF MAILING

PAGE 1
05/03/11

BIG WOOD CANAL COMPANY

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Phone: 208-934-4429

BLAINE COUNTY SCHOOL DISTRICT

Represented by:

JAMES P. SPECK

SPECK & AANESTAD

120 EAST AVENUE

PO BOX 987

KETCHUM, ID 83340

Phone: 208-726-4421

JULIE MURPHY

Chief Deputy Clerk