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DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho
MAR - 9 2012
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

Case No. 39576

Subcase No.: 37-82

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:

Charles F. McDevitt 2-21-12
Charles F. McDevitt Date
Attorney for Idaho Foundation for Parks &
Lands Inc.

OBJECTORS:

Craig D. Hobdey 2-29-12
Craig D. Hobdey Date
Attorney for Big Wood Canal Company

CLAIMANT / OBJECTOR:

J. Evan Robertson 2-27-12
J. Evan Robertson Date
Attorney for Lane Ranch Homeowners Assn Inc

Albert P. Barker 3-5-12
Albert P. Barker Date
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:

Douglas Jones *2/13/12*
Douglas Jones Date
Technical Engineer 1

IDWR CONCURRENCE:

Nicholas B. Spencer *2-15-12*
Nicholas B. Spencer Date
Deputy Attorney General
Attorney for IDWR

12/09/2011

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

RIGHT NUMBER: 37-82

NAME AND ADDRESS: IDAHO FOUNDATION FOR PARKS &
LANDS INC
5657 WARM SPRINGS AVE
BOISE ID 83716-8700

LANE RANCH HOMEOWNERS ASSN INC
C/O SUSAN MCBRYANT, MANAGER
PO BOX 1675
SUN VALLEY ID 83353

SOURCE: ELKHORN CREEK

Tributary: BIG WOOD RIVER

QUANTITY: 1.200 CFS

The amount of water under right nos. 37-81, 37-82 and 37-2635 to be discharged to the river as measured at a point below the pond in the SENE S30, T04N, R18E shall equal the amount approved for aesthetic, recreation and wildlife purposes, less a reasonable loss as determined by the director or watermaster.

~~The amount of water under Right Nos. 37-81 and 37-82 to be discharged to the river shall equal the amount diverted for aesthetic, recreation and wildlife purposes, less a reasonable loss for evaporation and seepage as determined by the Director or watermaster.~~

Water consumed under Transfer No. 3881 by diverting water for wildlife, aesthetic and recreation uses shall not exceed 3.3 acre feet from evaporation.

The total volume authorized for diversion and use pursuant to right nos. 37-82, 37-2365, 37-4016 and 37-7201 is limited to 315 acre feet. The volumetric limitation shall not begin to accrue, however, until: 1) All rights on Elkhorn Creek cannot be satisfied by the watermaster of Water District 37, Big Wood River, and 2) The owner of the rights approved by Transfer No. 3609 demands release of water from upstream users.

~~The total annual volume of water authorized for diversion and use pursuant to this right shall not begin to accrue until: a) all rights on Elkhorn Creek cannot be satisfied by the watermaster of Water District No. 37, Big Wood River, and b) the right holder calls for water from the upstream users.~~

Right nos. 37-2635, 37-81 and 37-82, when combined, shall not exceed a total flow rate of 0.71 cubic feet per second nor an annual volume of 69.9 acre feet for irrigation purposes.

~~Right Nos. 37-81 and 37-82, when combined, shall not exceed a total flow rate of 0.71 cubic feet per second nor an annual volume of 69.9 acre feet for irrigation purposes.~~

The total combined storage volume to be stored for wildlife, recreation and aesthetic uses under Rights 37-81, 37-82 and 37-2635 is 2.2 acre-feet.

PRIORITY DATE: 06/01/1884

Diversion of water pursuant to right nos. 37-82, 37-2635, 37-4016 and 37-7201 during the nonirrigation season is subject to any minimum stream flows established in the Big Wood River with later dates of priority.

Pursuant to a call in times of scarcity, this right shall be administered separately from the Big Wood River and its tributaries.

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

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POINT OF DIVERSION:

~~T04N R18E S19 SESE~~ Within BLAINE County
T04N R18E S19 NESESE Within BLAINE County
T04N R18E S19 NESESE Within BLAINE County
~~T04N R18E S20 NWSW~~ Within BLAINE County
T04N R18E S30 NENENE Injection Within BLAINE County
T04N R18E S30 SENENE Injection Within BLAINE County
T04N R18E S30 SENENE Within BLAINE County
T04N R18E S30 NESENE Injection Within BLAINE County
T04N R18E S30 NESENE Within BLAINE County

Flow measuring devices as specified by the department and/or watermaster shall be installed and maintained by the right holder at the following three (3) locations: a) at the points where water is diverted from the Big Wood River and/or Elkhorn Creek, b) at the point where 0.03 cfs is reddiverted to the identified pond, and c) at a point where water diverted under Right Nos. 37-01 and 37-02 is returned to the Big Wood River.

PURPOSE AND
PERIOD OF USE:

Purpose of use	Period of use:	Quantity:
IRRIGATION	04/15 10/31	0.710 CFS
WILDLIFE	01/01 12/31	1.200 CFS
<u>WILDLIFE STORAGE</u>	<u>01/01 12/31</u>	<u>2.10 AFY</u>
RECREATION	01/01 12/31	1.200 CFS
<u>RECREATION STORAGE</u>	<u>01/01 12/31</u>	<u>2.10 AFY</u>
AESTHETIC	01/01 12/31	1.200 CFS
<u>AESTHETIC STORAGE</u>	<u>01/01 12/31</u>	<u>2.10 AFY</u>

PLACE OF USE:

IRRIGATION within BLAINE County

<u>T04N R18E S19 NESE 7.1</u>	T04N R18E S19 NESE 3.7
<u>T04N R18E S19 SWSE 4.5</u>	T04N R18E S19 SWSE 3.5
<u>T04N R18E S19 SESE 26.0</u>	T04N R18E S19 SESE 5.6
<u>T04N R18E S20 NWSW 4.4</u>	T04N R18E S20 NWSW 3.1
<u>T04N R18E S20 SWSW 5.6</u>	T04N R18E S29 NWNW 8.6
T04N R18E S29 NWNW 0.5	
<u>T04N R18E S30 NENE 26.0</u>	T04N R18E S30 NENE 6.9

WILDLIFE within BLAINE County

T04N R18E S19 NESE T04N R18E S19 SESE
T04N R18E S30 NENE

~~RECREATION same as WILDLIFE~~

RECREATION within BLAINE County

T04N R18E S19 NESE T04N R18E S19 SESE
T04N R18E S30 NENE

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IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
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~~AESTHETIC same as WILDLIFE~~

AESTHETIC within BLAINE County

T04N R18E S19 NESE

T04N R18E S19 SESE

T04N R18E S30 NENE

AESTHETIC STORAGE within BLAINE County

T04N R18E S30 SENE

RECREATION STORAGE within BLAINE County

T04N R18E S30 SENE

WILDLIFE STORAGE within BLAINE County

T04N R18E S30 SENE

82.2 ACRES TOTAL 23.3 ACRES TOTAL

This right is limited to the irrigation of 23.3 acres within the place of use described above in a single irrigation season.

Right Nos. 37-81, 37-82 and 37-2635 are limited to the irrigation of a combined total of 23.3 acres in a single irrigation season.

Right Nos. 37-81 and 37-82 are limited to the irrigation of a combined total of 23.3 acres 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.

Prior to diversion of water, flow measuring devices as specified by the department &/or watermaster shall be installed by the right holder at the following locations: a) at the point where water is diverted from the Big Wood River and rediverted from Elkhorn Creek and b) at a point on the downstream side of the bridge over Elkhorn Creek where water diverted under right nos. 37-81, 37-82, 37-2635, 37-4016, and 37-7201 flows out of the pond or wetland area subject of transfer No. 3881 located in the NESENE S30 T04N, R18E.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Long standing man-made alteration in the natural channel of Elkhorn Creek requires construction of a channel through the development listed as the place of use. The right to diversion of Elkhorn Creek in the channels of the development and to demand flow in Elkhorn Creek is limited by the annual volume and flow rate of water right nos. 37-82, 37-2635, 37-4016 and 37-7201.

The right holder shall accomplish the change authorized by Transfer No. 3881 by December 9, 1994.

Failure of the right holder to comply with the conditions of Transfer No. 3881 is cause for the Director to rescind approval of the transfer.

Use of water under right no. 37-82 will be regulated by the watermaster of state water district no. 37.

The wildlife, recreation and aesthetic uses shall be considered to have a consumptive component equal to the smaller of: 1) the irrigation consumption prior to transfer 3609 less the irrigation consumption after the transfer, or 2) the actual consumption by the authorized wildlife, recreation and aesthetic uses.

12/09/2011

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

The pond in the SENE S30, T04N, R18E is located on the Idaho Foundation for Parks and Lands Inc property. This pond is constructed on the stream of Elkhorn Creek and is filled by water from Elkhorn Creek pursuant to rights 37-82 and 37-2635 and water pumped from the Big Wood River pursuant to right 37-81. This pond was authorized by transfer No. 3881. The storage volume of the pond is 2.1 acre feet.

AK

D/ NBS
apme
ger
APB

CERTIFICATE OF SERVICE

I certify that on March 8, 2012, 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

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

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

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☒ Regular Mail
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☐ Facsimile

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

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☐ Hand-Delivered
☐ Facsimile

Charles F. McDevitt
McDevitt & Miller
P.O. Box 2564
Boise, ID 83701

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☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile



Signature of person or attorney mailing the form