

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

In Re CSRBA

Case No. 49576

) SUBCASE: 92-7208

) STANDARD FORM 5

) STIPULATED ELEMENTS OF A WATER
) RIGHT

) ☐ AMENDED NOTICE OF CLAIM /
) DIRECTOR'S REPORT

This form is used to report the stipulated elements of one water right acquired under state law. 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 Coeur d'Alene-Spokane 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 decreed as described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages. Attached pages should include a copy of the Director's Recommendation, noting where stipulated changes have been made.

CLAIMANT:

Emerald Creek Garnet Ltd.

OBJECTOR:

Idaho Department of Lands

 11-5-15

Edward Kok
General Counsel

Date

 11-20-15

Steven Strack
Deputy Attorney General

Date

IDWR Concurrence:

<u>Linda Werner</u>	<u>11-10-2015</u>	<u>MJ CA</u>	<u>11/23/15</u>
Linda Werner	Date	Meghan Carter	Date
Senior Water Resource Agent		Deputy Attorney General	
		Attorney for IDWR	

12/29/2014

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

RIGHT NUMBER: 92-7208

NAME AND ADDRESS: EMERALD CREEK GARNET LTD
PO BOX 190
FERNWOOD ID 83830-0190

SOURCE: EMERALD CREEK
EAST FORK EMERALD CREEK
WEST FORK EMERALD CREEK
UNNAMED STREAM
WILLOW CREEK

TRIBUTARY: ST MARIES RIVER
TRIBUTARY: EMERALD CREEK
TRIBUTARY: EMERALD CREEK
TRIBUTARY: WEST FORK EMERALD CREEK
TRIBUTARY: SINKS

QUANTITY: 2.230 CFS
24.00 AFY

Water shall not be diverted under this right when flows in the St. Maries River are below established minimum flow amounts. The right holder shall be responsible for monitoring the daily flow of the St. Maries River near Santa using real-time data published on the internet by the U.S. Geological Survey and shall cease diverting water when flows in the St. Maries are below established minimum instream flow amounts.

PRIORITY DATE: 05/02/1994

POINT OF

DIVERSION: T43N R01E S22 SESW Within SHOSHONE County
T43N R01E S27 NENW Within SHOSHONE County
T43N R01E S27 NWNW Within SHOSHONE County
T43N R01E S27 SWNW Within SHOSHONE County
T43N R01E S27 SENW Within SHOSHONE County
T43N R01E S27 NESW Within SHOSHONE County
T43N R01E S27 NWSW Within SHOSHONE County
T43N R01E S27 SWSW Within SHOSHONE County
T43N R01E S27 SESW Within SHOSHONE County
T43N R01E S28 NENE Within BENEWAH County
T43N R01E S28 SENE Within BENEWAH County
T43N R01E S28 NESE Within BENEWAH County
T43N R01E S28 SESE Within BENEWAH County
T43N R01E S33 NESE Within BENEWAH County
T43N R01E S33 NWSE Within BENEWAH County
T43N R01E S34 SWNW Within BENEWAH County
T43N R01E S34 NWSW Within BENEWAH County
~~T43N R01W S36 NESE Within BENEWAH County~~
~~T43N R01W S36 NWSE Within BENEWAH County~~
~~T43N R01W S36 SWSE Within BENEWAH County~~
~~T43N R01W S36 SESE Within BENEWAH County~~

*all
J.W.
SWS
me*

The approach velocity at the point of diversion shall not exceed 0.5 feet per second.

A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MINING	01/01 12/31	2.230 CFS 24.00 AFY

The maximum duration of diversion period authorized under this right is limited to 5 hours in two weeks.

This right authorizes no more than one diversion period per washer per 30-day period, or one diversion period per washer per calendar month.

PLACE OF USE:

MINING in BENEWAH County and SHOSHONE County

T43N R01E S22	SESW	T43N R01E S22	SWSE
T43N R01E S27	NWNE	T43N R01E S27	SWNE
T43N R01E S27	NENW	T43N R01E S27	NWNW
T43N R01E S27	SWNW	T43N R01E S27	SENW
T43N R01E S27	NESW	T43N R01E S27	NWSW
T43N R01E S27	SWSW	T43N R01E S27	SESW
T43N R01E S27	NWSE	T43N R01E S27	SWSE
T43N R01E S28	NENE	T43N R01E S28	SENE
T43N R01E S28	NESE	T43N R01E S28	SESE
T43N R01E S33	NESW	T43N R01E S33	NESE
T43N R01E S33	NWSE	T43N R01E S34	SWNW
T43N R01E S34	NWSW	T43N R01W S36	NESE
T43N R01W S36	NWSE	T43N R01W S36	SWSE

Under this right, the land application of water is limited to the reclamation of land directly affected as a result of being mined and is not to exceed a total of 26 acres annually within the place of use described above for mining.

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 - License

Water used under this right when discharged into a natural channel or subsurface system shall meet Idaho Water Quality Standards.

After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.

The issuance of this right in no way grants any right-of-way or easement across the land of another.

A separate stream alteration permit from the IDWR is required for any activity in the stream channel other than construction and/or maintenance of the diversion structure. If the proposed construction or operation involves construction of an outfall or any other work in the stream channel other than a water diversion, the right holder shall contact the Department and obtain a Stream Channel Alteration permit prior to the start of construction.

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of November, 2015, I caused to be served a copy of the Standard Form 5 – Amended Notice of Claim / Director's Report by the following method to:

1. Original to:

Clerk of the District Court	☐ Overnight Mail
Coeur d'Alene-Spokane River Basin Adj.	☒ Regular Mail
P.O. Box 2707	☐ Hand-delivered
Twin Falls, ID 83303-2707	☐ Facsimile

2. Copies to:

IDWR Document Depository	☐ Overnight Mail
322 East Front St.	☐ Regular Mail
P.O. Box 83720	☒ Hand-delivered
Boise, ID 83720-0098	☐ Facsimile

State of Idaho	☐ Overnight Mail
Represented by:	☒ Regular Mail
State of Idaho	☐ Hand-Delivered
700 W Jefferson, Rm 210	☐ Facsimile
PO Box 83720	
Boise, ID 83720-0010	

Emerald Creek Garnet LTD	☐ Overnight Mail
PO Box 190	☒ Regular Mail
Fernwood, ID 83830-0190	☐ Hand-Delivered
	☐ Facsimile

Signature of person delivering this document

Jori Harris