

LEGAL DEPARTMENT
ROGER E. COCKERILLE
CITY ATTORNEY



CAROLYN TERTELING-PAYNE
DISTRICT COURT - SABA
TWIN FALLS CO., IDAHO
COUNCIL MEMBERS

FILED
M. JEROME MAPP
COUNCIL PRESIDENT
2003 JUL 11 PM 12:10
COUNCIL PRO TEM

VERNON L. BISTERFELDT
PAUL B. FORNEY
MARYANNE JORDAN
ALAN W. SHEALY

July 9, 2003

Eric J. Wildman
Staff Attorney
Snake River Basin Adjudication
253 Third Ave. N.
PO Box 2707
Twin Falls, ID 83303-2707

Re: Subcase 63-21814, Partial Decree

Dear Eric:

Thank you for speaking with me today by telephone regarding the partial decree in this matter which contains elements (place of use and point of diversion) which are in error. The point of diversion listed in the records of the Department of Water Resources indicates a point of diversion and place of use different than the actual point of diversion in place of use. Specifically, the partial decree, issued in 2000, cite to:

Point of diversion: T04N R02E S32 SESENW

Place of use: T04N R02ES32 SENW

These should actually be:

Point of diversion: T04N R02E S32 SWSWNE

Place of use: T04N R02E S32 SWNE

We are seeking to correct these clerical errors in accordance with law. Enclosed please find a copy of an *Affidavit in Support For Correcting the Legal Description of Decreed Claim, Water Right 63-21814*, executed by Lynne Ball, a former owner of the property who, along with her husband Ray, filed the claim. Should the court require it, I can prepare a *Motion to Set Aside the Partial Decree* or *Motion to File an Amended Notice of Claim*, along with the original of the affidavit referenced. This appears to be a clerical error, which I am hoping can be corrected before a final, unified decree is issued.

Please let me know what, if any, additional steps must be taken in order to correct the error.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew K. Wilde", written over the printed name.

Matthew K. Wilde
Assistant City Attorney

cc. Beth Baird, PW
Enc.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 22, 2002

RECEIVED

MAY 24 2002

Public Works

CITY OF BOISE PUBLIC WORKS DEPT
ATTN BETH BAIRD
PO BOX 500
BOISE ID 83701-0500

RE: Change in Ownership of Decreed Water Right 63-21814

Dear Ms. Baird:

The Department of Water Resources acknowledges receipt of the information you submitted in support of your Notice of Change in Water Right Ownership filed on October 12, 2001 for the water right referenced above. The Snake River Basin Adjudication (SRBA) Court issued a partial decree describing the water right(s) with a place of use different than your property as described in the documentation you originally submitted. We have reviewed your information and found that it is not sufficient to resolve the place of use discrepancy. The legal description you provided shows land in the **Northeast (NE)** quarter and the partial decree indicates the property as being in the **Northwest (NW)** quarter. A copy of the partial decree is enclosed for your information.

In order to process your change in ownership, we need documentation to show that you own the water right(s) or the property described as the place of use for the water right(s). If you believe that the SRBA Court issued the partial decree(s) with an error in the description of the place of use, you may be able pursue one of the following options with the Court.

- 1) Motion to set-aside – a motion filed with the SRBA Court which, if granted, would provide a process to correct the partial decree. You would need to provide justification for the correction.
- 2) Motion to file late claim – a motion filed with the SRBA Court which, if granted, would allow you to file a new claim for your existing water use. A late claim would be investigated for validity and accuracy by the Department.

Please contact Roxanne Brown of this office at 327-7900 if you have questions related to the SRBA. Ms. Brown can assist you with the SRBA Court's processes.

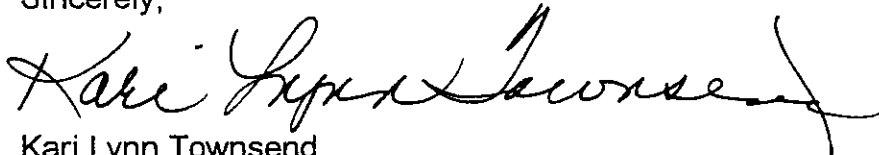
As additional alternatives, you could pursue one of the following options with the Department.

- 1) New Appropriation – an application for permit filed with the Department to develop a new water right. If a permit is approved, the priority date is the date that the application is filed. Some areas of the state are closed to new development. Please note that a water right permit is not required for certain domestic uses from a ground water source.
- 2) Water Right Transfer – an application filed with the Department to change an existing water right. In this case, the purpose of the transfer would be to change the place of use (and possibly the point of diversion) to your property description. You would need to provide evidence of ownership or authorization from the current owner of record before the Department could process the application.

If you choose to file an application for permit or transfer with the Department, you may be able to apply any fees submitted with your Notice of Change in Water Right Ownership to the application. Please contact staff from the Water Right Permits section of this office if you have additional questions related to the applications described above.

Please let us know within 30 days how you plan to proceed. If we do not hear from you within 30 days we will return your Notice of Change in Water Right Ownership and all attachments and refund any fees submitted with your notice.

Sincerely,



Kari Lynn Townsend
Secretary

Enclosure(s)

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 63-21814

NAME AND ADDRESS: LYNNE Z BALL
RAYMOND DALE BALL
891 LANDER
BOISE, ID 83703

COPY

SOURCE: GROUNDWATER

QUANTITY: 0.04 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 05/16/1951

POINT OF DIVERSION: T04N R02E S32 SESENW Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic 4 HOMES	01-01 TO 12-31	0.04 CFS

PLACE OF USE: Domestic T04N R02E S32 SENW Within Ada County

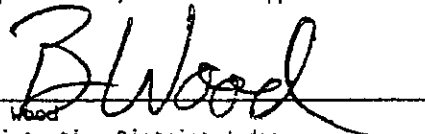
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT 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.


Barry Wood
Administrative District Judge
Presiding Judge of the
Snake River Basin Adjudication

Ident. No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

**AFFIDAVIT IN SUPPORT FOR CORRECTING THE LEGAL DESCRIPTION
ON DECREED CLAIM, WATER RIGHT 63-21814**

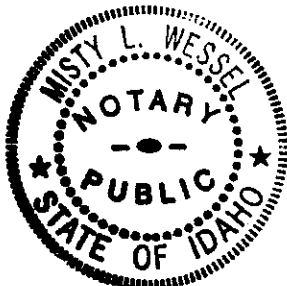
1. I, Lynn Ball, of Boise, Idaho, County of Ada, State of Idaho, being duly sworn, do hereby certify that I am a bona fide resident of the State of Idaho.
2. I, Lynne Ball, of Boise Idaho, County of Ada, State of Idaho, being duly sworn, depose and say:
3. That, with my husband, I owned the property at 891 Lander St., Boise, Idaho 83703 until June 2001 when it was deeded to Superior Value Construction Development, LLC who subsequently deeded the property to The City of Boise.
4. That, with my husband, I claimed in the Snake River Basin Adjudication (SRBA), the ground water pumped from a well on the property at 891 Lander St.
5. That this claim was designated 63-21814 by the Idaho Department of Water Resources.
6. That this claim in the SRBA indicated that the point of diversion was at T04N R02E S32 SESENW and the place of use was at T04N R02E S32 SENW.
7. That the actual point of diversion is T04N R02E S32 SWSWNE and the actual place of use is T04N R02E S32 SWNE.

Dated this 1/15 day of January, 2003.

Lynne Z. Ball
Lynne Z. Ball

State of Idaho)
) ss.
County of Ada)

On this 15 day of January, 2003, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.



Misty L. Wessel
Notary Public
Residing at Boise, Idaho

My commission Expires: 11-12-05