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Attorneys for Brenda Stolworthy and David Stolworthy

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. 35-7368B

MOTION TO ALTER OR  
AMEND PARTIAL DECREE TO  
INCLUDE  
RECOMMENDATIONS OF  
DEPARTMENT OF WATER  
RESROUCES

COME NOW Claimants herein, Brenda Stolworthy and David Stolworthy,  
by and through their attorneys of the law firm of Hopkins Roden Crockett Hansen &  
Hoopes and represent to the Court as follows.

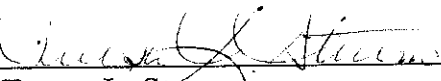
Brenda Stolworthy and David Stolworthy are the water rights claimants in  
Subcase No. 35-7368B. The Court has previously entered its Partial Decree as to this  
water right. However, Claimant, Brenda Stolworthy, filed a claim on or about the 12<sup>th</sup>

MOTION TO ALTER OR AMEND PARTIAL DECREE TO INCLUDE  
RECOMMENDATIONS OF DEPARTMENT OF WATER RESOURCES - 1

day of March 2001 alleging the existence of a beneficial use claim under Right Number 35-13305 with a priority date of 9-8-1960, source groundwater, points of diversion in T1N, R36E., B.M. Section 34 for 10.25 cfs total quantity appropriated. Place of use was identified in the claim to a water right on a total of 527.1 acres. The Special Master has reviewed the claim. At the request of Claimant, the Department of Water Resources has done a review of the beneficial use claim and of the above cited claim, together with Rights numbered 35-7000b and 35-7493 and has made recommendations concerning all four Rights. A true and correct copy of the Department's recommendations as to each right (35-13305, 35-7000B, 35-7368B and 35-7493) is attached hereto and incorporated herein. Because the Department has recommended that the beneficial use claim be recognized and administered and because there is concern as to overlap in the foregoing identified rights, Claimant believes it is appropriate that the Partial Decree as to Right Number 35-7368B be altered or amended by interlineations to incorporate the suggestions made by the Department of Water Resources. The amendments will serve to clarify the manner in which Claimant's water rights are to be administered and will avoid overlap of water rights held by Claimant on common parcels of property.

Respectfully submitted this 28<sup>th</sup> day of April, 2004.

HOPKINS RODEN CROCKETT  
HANSEN & HOOPES, PLLC

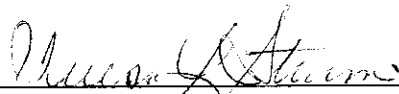
By   
Teresa L. Sturm

CERTIFICATE OF SERVICE BY MAIL, HAND DELIVERY  
OR FACSIMILE TRANSMISSION

I hereby certify that a true and correct copy of the foregoing document was on this date served upon the persons named below, at the addresses set out below their name, either by mailing, hand delivery or by telecopying to them a true and correct copy of said document in a properly addressed envelope in the United States mail, postage prepaid; by hand delivery to them; or by facsimile transmission.

DATED this 28<sup>th</sup> day of April, 2004.

HOPKINS RODEN CROCKETT  
HANSEN & HOOPES, PLLC

By   
Teresa L. Sturm

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

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United States Department of Justice  
Environment and Natural Resource Division  
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Boise, ID 83724

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

RIGHT NUMBER: 35-13305

NAME AND ADDRESS:

BRENDA STOLWORTHY  
1230 N 375 E  
SHELLEY ID 83274

SOURCE:

Source:  
GROUND WATER

Tributary:

QUANTITY:

8.650 CFS    ~~7.750 CFS~~    1,856.000 AFY

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED  
DIVERSION RATE OF 9.62 CFS AND TO A TOTAL COMBINED ANNUAL  
DIVERSION VOLUME OF 2092 AF. COMBINED RIGHT NOS.: 35-7000B, 35-7368B,  
35-7493 AND 35-13305

PRIORITY DATE: 08/16/1961

POINT OF DIVERSION:

|                             |                              |
|-----------------------------|------------------------------|
| <u>T01N R36E S34 NWSENE</u> | <u>Within BINGHAM County</u> |
| <u>T01N R36E S34 NENWNW</u> | <u>Within BINGHAM County</u> |
| <u>T01N R36E S34 NWSESW</u> | <u>Within BINGHAM County</u> |

PURPOSE AND  
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

|            |             |                                              |
|------------|-------------|----------------------------------------------|
| IRRIGATION | 04/01 10/31 | <u>8.650 CFS</u> <u>1,856.00 AFY</u>         |
|            |             | <del>7.750 CFS</del> <del>1,856.00 AFY</del> |

PLACE OF USE:

IRRIGATION    within BINGHAM County

|                                |                                    |
|--------------------------------|------------------------------------|
| <u>T01N R36E S27 NESW 4.0</u>  |                                    |
| <u>T01N R36E S27 NWSW 4.0</u>  |                                    |
| <u>T01N R36E S27 SWSW 36.0</u> | <del>T01N R36E S27 SWSW 20.0</del> |
| <u>T01N R36E S27 SESW 40.0</u> | <del>T01N R36E S27 SESW 37.0</del> |
| <u>T01N R36E S27 NWSE 3.0</u>  |                                    |
| <u>T01N R36E S27 SWSE 37.0</u> | <del>T01N R36E S27 SWSE 19.0</del> |
| <u>T01N R36E S33 NENE 1.0</u>  | <del>T01N R36E S33 NENE 0.5</del>  |
| <u>T01N R36E S33 SENE 1.0</u>  | <del>T01N R36E S33 SENE 5.2</del>  |
|                                | <del>T01N R36E S33 SESE 0.2</del>  |

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

T01N R36E S34 NENE 27.0  
T01N R36E S34 NWE 39.0  
T01N R36E S34 SWNE 35.0  
T01N R36E S34 SENE 33.0  
T01N R36E S34 NENW 40.0  
T01N R36E S34 NWNW 37.0  
T01N R36E S34 SWNW 32.0  
T01N R36E S34 SENW 36.0  
T01N R36E S34 NESW 34.0  
T01N R36E S34 NWSW 24.0  
T01N R36E S34 SWSW 28.0  
T01N R36E S34 SESW 32.0

T01N R36E S34 NENE 26.0  
T01N R36E S34 NWE 40.0  
T01N R36E S34 SWNE 33.0  
T01N R36E S34 SENE 15.0  
T01N R36E S34 NENW 41.0  
T01N R36E S34 NWNW 36.0  
T01N R36E S34 SWNW 37.0  
T01N R36E S34 SENW 37.0  
T01N R36E S34 NESW 21.0  
T01N R36E S34 NWSW 26.0  
T01N R36E S34 SWSW 31.0  
T01N R36E S34 SESW 39.0

523 ACRES TOTAL

463.9 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A  
COMBINED TOTAL OF 523 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED  
RIGHT NOS.: 35-7000B, 35-7368B, 35-7493 AND 35-13305

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 463.9 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.

~~RECOMMENDED AS RIGHT NO. 35-7493. This is included for a~~  
~~claim that is PROPOSED to be disallowed because the right claimed is~~  
~~recommended pursuant to another right. The remark indicates the~~  
~~water right number of the OTHER right that is proposed to be~~  
~~recommended. If you are not mailed a notice of the recommendation of~~  
~~the OTHER right, then the OTHER right is recommended in another~~  
~~claimant's name.~~  
~~RECOMMENDED AS RIGHT NO. 35-7493.~~

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION  
PURSUANT TO SECTION 42-1425, IDAHO CODE.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO  
SECTION 42-1425, IDAHO CODE.

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

RIGHT NUMBER: 35-7000B

NAME AND ADDRESS:

BRENDA STOLWORTHY  
1230 N 375 E  
SHELLEY ID 83274  
  
DAVID STOLWORTHY  
1230 N 375 E  
SHELLEY ID 83274

SOURCE:

Source:  
GROUND WATER

Tributary:

QUANTITY:

3.410 CFS

0.000 AFY

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED  
DIVERSION RATE OF 9.62 CFS AND TO A TOTAL COMBINED ANNUAL  
DIVERSION VOLUME OF 2092 AF. COMBINED RIGHT NOS.: 35-7000B, 35-7368B,  
35-7493 AND 35-13305

~~USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL  
COMBINED ANNUAL DIVERSION VOLUME OF 2092 AF.  
COMBINED RIGHT NOS.: 35-7493 AND 35-7368B.~~

PRIORITY DATE: 07/28/1967

POINT OF DIVERSION:

|                      |                       |
|----------------------|-----------------------|
| T01N R36E S34 NWSENE | Within BINGHAM County |
| T01N R36E S34 NENWNW | Within BINGHAM County |
| T01N R36E S34 NWSSEW | Within BINGHAM County |

PURPOSE AND  
PERIOD OF USE:

| Purpose of use | Period of use: | Quantity: |
|----------------|----------------|-----------|
| IRRIGATION     | 4/01 10/31     | 3.410 CFS |

PLACE OF USE:

IRRIGATION within BINGHAM County

|                    |      |
|--------------------|------|
| T01N R36E S27 NESW | 4.0  |
| T01N R36E S27 NWSW | 4.0  |
| T01N R36E S27 SWSW | 36.0 |
| T01N R36E S27 SESW | 40.0 |
| T01N R36E S27 NWSE | 3.0  |
| T01N R36E S27 SWSE | 37.0 |
| T01N R36E S33 NENE | 1.0  |
| T01N R36E S33 SENE | 1.0  |
| T01N R36E S34 NENE | 27.0 |
| T01N R36E S34 NWNE | 39.0 |
| T01N R36E S34 SWNE | 35.0 |
| T01N R36E S34 SENE | 33.0 |

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

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T01N R36E S34 NENW 40.0  
T01N R36E S34 NWNW 37.0  
T01N R36E S34 SWNW 32.0  
T01N R36E S34 SENW 36.0  
T01N R36E S34 NESW 34.0  
T01N R36E S34 NWSW 24.0  
T01N R36E S34 SWSW 28.0  
T01N R36E S34 SESW 32.0

523 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A  
COMBINED TOTAL OF 523 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED  
RIGHT NOS.: 35-7000B, 35-7368B, 35-7493 AND 35-13305

~~USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE  
IRRIGATION OF A COMBINED TOTAL OF 523 ACRES IN A SINGLE IRRIGATION  
SEASON. COMBINED RIGHT NOS.: 35-07368B AND 35-07493.~~

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

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

RIGHT NUMBER: 35-7368B

NAME AND ADDRESS:

BRENDA STOLWORTHY  
1230 N 375 E  
SHELLEY ID 83274  
  
DAVID STOLWORTHY  
1230 N 375 E  
SHELLEY ID 83274

SOURCE:

Source:  
GROUND WATER

Tributary:

QUANTITY:

1.820 CFS

0.000 AFY

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED  
DIVERSION RATE OF 9.62 CFS AND TO A TOTAL COMBINED ANNUAL  
DIVERSION VOLUME OF 2092 AF. COMBINED RIGHT NOS.: 35-7000B, 35-7368B,  
35-7493 AND 35-13305

~~USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL  
COMBINED ANNUAL DIVERSION VOLUME OF 2092 AF.  
COMBINED RIGHT NOS.: 35-07493 AND 35-07000B.~~

PRIORITY DATE:

01/11/1974

POINT OF DIVERSION:

T01N R36E S34 NWSENE  
T01N R36E S34 NENWNW  
T01N R36E S34 NWSESW

Within BINGHAM County  
Within BINGHAM County  
Within BINGHAM County

PURPOSE AND  
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

IRRIGATION

4/01 10/31

1.820 CFS

PLACE OF USE:

IRRIGATION

within BINGHAM County

T01N R36E S27 NESW 4.0  
T01N R36E S27 NWSW 4.0  
T01N R36E S27 SWSW 36.0  
T01N R36E S27 SESW 40.0  
T01N R36E S27 NWSE 3.0  
T01N R36E S27 SWSE 37.0  
T01N R36E S33 NENE 1.0  
T01N R36E S33 SENE 1.0  
T01N R36E S34 NENE 27.0  
T01N R36E S34 NWNE 39.0  
T01N R36E S34 SWNE 35.0  
T01N R36E S34 SENE 33.0  
T01N R36E S34 NENW 40.0  
T01N R36E S34 NWNW 37.0  
T01N R36E S34 SWNW 32.0

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

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T01N R36E S34 SENW 36.0  
T01N R36E S34 NESW 34.0  
T01N R36E S34 NWSW 24.0  
T01N R36E S34 SWSW 28.0  
T01N R36E S34 SESW 32.0

523 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A  
COMBINED TOTAL OF 523 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED  
RIGHT NOS.: 35-7000B, 35-7368B, 35-7493 AND 35-13305

~~USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE  
IRRIGATION OF A COMBINED TOTAL OF 523 ACRES IN A SINGLE IRRIGATION  
SEASON. COMBINED RIGHT NOS.: 35-07000B AND 35-07493.~~

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

~~RIGHT NOS. 35-07000B & 35-07493 ARE ALSO DIVERTED THROUGH POINTS OF  
DIVERSION DESCRIBED ABOVE.~~

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

RIGHT NUMBER: 35-7493

NAME AND ADDRESS:

BRENDA STOLWORTHY  
1230 N 375 E  
SHELLEY ID 83274  
  
DAVID STOLWORTHY  
1230 N 375 E  
SHELLEY ID 83274

SOURCE:

Source:  
GROUND WATER

Tributary:

QUANTITY:

4.240 CFS

0.000 AFY

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED  
DIVERSION RATE OF 9.62 CFS AND TO A TOTAL COMBINED ANNUAL  
DIVERSION VOLUME OF 2092 AF. COMBINED RIGHT NOS.: 35-7000B, 35-7368B,  
35-7493 AND 35-13305

~~USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL  
COMBINED ANNUAL DIVERSION VOLUME OF 2092 AF.  
COMBINED RIGHT NOS.: 35-07000B AND 35-07368B.~~

PRIORITY DATE: 03/24/1975

POINT OF DIVERSION:

|                      |                       |
|----------------------|-----------------------|
| T01N R36E S34 NWSENE | Within BINGHAM County |
| T01N R36E S34 NENWNW | Within BINGHAM County |
| T01N R36E S34 NWSSEW | Within BINGHAM County |

PURPOSE AND  
PERIOD OF USE:

| Purpose of use | Period of use: | Quantity: |
|----------------|----------------|-----------|
| IRRIGATION     | 4/01 11/01     | 4.240 CFS |

PLACE OF USE:

|                         |                       |
|-------------------------|-----------------------|
| IRRIGATION              | within BINGHAM County |
| T01N R36E S27 NESW 4.0  |                       |
| T01N R36E S27 NWSW 4.0  |                       |
| T01N R36E S27 SWSW 36.0 |                       |
| T01N R36E S27 SESW 40.0 |                       |
| T01N R36E S27 NWSE 3.0  |                       |
| T01N R36E S27 SWSE 37.0 |                       |
| T01N R36E S33 NENE 1.0  |                       |
| T01N R36E S33 SENE 1.0  |                       |
| T01N R36E S34 NENE 27.0 |                       |
| T01N R36E S34 NWNE 39.0 |                       |
| T01N R36E S34 SWNE 35.0 |                       |
| T01N R36E S34 SENE 33.0 |                       |
| T01N R36E S34 NENW 40.0 |                       |
| T01N R36E S34 NWNW 37.0 |                       |

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

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T01N R36E S34 SNNW 32.0  
T01N R36E S34 SENW 36.0  
T01N R36E S34 NESW 34.0  
T01N R36E S34 NWSW 24.0  
T01N R36E S34 SWSW 28.0  
T01N R36E S34 SESW 32.0

523 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A  
COMBINED TOTAL OF 523 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED  
RIGHT NOS.: 35-7000B, 35-7368B, 35-7493 AND 35-13305

~~USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE  
IRRIGATION OF A COMBINED TOTAL OF 523 ACRES IN A SINGLE IRRIGATION  
SEASON. COMBINED RIGHT NOS.: 35-07368B AND 35-07000B. THIS RIGHT IS  
LIMITED TO THE IRRIGATION OF 480 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 - License

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO  
SECTION 42-1425, IDAHO CODE.

~~RIGHT NOS. 35-07368B & 35-07000B ARE ALSO DIVERTED THROUGH POINTS OF  
DIVERSION DESCRIBED ABOVE.~~