



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

ALAN G. LANCE
August 1, 2001

Matt J Howard
2402 W Jeffeson
Boise, ID 83702

Norm M. Semanko
410 S Orchard, Ste 144
Boise, ID 83705

David Barber
Idaho Attorney General's Office
Natural Resources Division
PO Box 83720
Boise, ID 83720

RE: SRBA Subcase Nos. 61-02248B and 61-07189

Dear Matt, Norm and David:

I have enclosed copies of the Standard Forms 5 for subcase numbers 61-02248B and 61-07189. The Department has agreed to delete the quantity remark that referred to water right permit number 61-07724 and has changed the season of use back to August 15 to July 1 as the parties agreed.

Please review and sign these documents and then forward them to the other parties to review and sign and then forward them to me for signature and signing. Once I receive these documents, I plan to file them with the court along with a report clarifying some of the ambiguities raised in the March 28, 2001 order from Judge Burdick regarding subcase numbers 61-02248B and 61-07189. I would be happy to provide a copy of that report to you prior to filing it with the court if you would like to review it.

If you have any questions, please do not hesitate to contact me at 327-7900.

Sincerely,

Candice M. McHugh
Deputy Attorney General

Enclosures: SF5s

cc: Susan E Hamlin Nygard

07/31/2001

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

RIGHT NUMBER: 61-2248B

NAME AND ADDRESS: MAGIC WEST INC
PO BOX 475
RUPERT, ID 83350

SOURCE: GROUND WATER

QUANTITY: 0 08 CFS
8 AFY

USE OF THIS RIGHT WITH RIGHT NO 61-07189 IS LIMITED TO
A TOTAL COMBINED DIVERSION RATE OF 0 67 CFS

PRIORITY DATE: 04/03/1939

POINT OF DIVERSION: T05S R10E S29 SWSE Within ELMORE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
INDUSTRIAL	08-15 07-01	0 08 CFS
		8 00 AFY

INDUSTRIAL USE IS FOR POTATO PROCESSING PLANT

PLACE OF USE:

INDUSTRIAL Within ELMORE County
T05S R10E S29 SWSE

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 POINT OF
DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.

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

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

WATER TEMPERATURE MEASURED AT 112 DEGREES F

USE OF THIS RIGHT IS COMBINED WITH WATER FROM THE
CITY OF GLENNS FERRY.

RIGHT NO. 61-07189 IS ALSO DIVERTED THROUGH POINT OF
DIVERSION DESCRIBED ABOVE

07/31/2001

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

RIGHT NUMBER: 61-7189

NAME AND ADDRESS: MAGIC WEST INC
PO BOX 475
RUPERT, ID 83350

SOURCE: GROUND WATER

QUANTITY: 0.67 CFS
58 AFY

USE OF THIS RIGHT WITH RIGHT NO 61-02248B IS LIMITED
TO A TOTAL COMBINED DIVERSION RATE OF 0.67 CFS

PRIORITY DATE: 07/10/1974

POINT OF DIVERSION: T05S R10E S29 SWSE Within ELMORE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
INDUSTRIAL	08-15 07-01	0.67 CFS 58.00 AFY

INDUSTRIAL USE IS FOR POTATO PROCESSING PLANT

PLACE OF USE:

INDUSTRIAL Within ELMORE County
T05S R10E S29 SWSE

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 TEMPERATURE MEASURED AT 112 DEGREES F
USE OF THIS RIGHT IS COMBINED WITH WATER FROM THE
CITY OF GLENN'S FERRY.

RIGHT NO. 61-02248B IS ALSO DIVERTED THROUGH POINT
OF DIVERSION DESCRIBED ABOVE

AJ5856NP

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

DATE: FEB-12-1999
PAGE: A-780

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 51-11900

NAME & ADDRESS: ROBERT C CUNNINGHAM
ELAINE I CUNNINGHAM
PO BOX 760
GLENNS FERRY ID 83623

SOURCE: GROUNDWATER

QUANTITY: 0.04 CFS
1.2 AFY

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

PRIORITY DATE: 07/03/1985

POINT OF DIVERSION: T05S R10E S32 LOT 3 (SENW) Within ELMORE County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
DOMESTIC		01-01 12-31	0.04 CFS
			1.2 AFY

DOMESTIC USE IS FOR HEATING OF HOME & SWIMMING POOL .

PLACE OF USE: DOMESTIC Within ELMORE County
T05S R10E S32 SENW

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - BENEFICIAL USE

AJ5856NP

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

DATE: FEB-12-1999
PAGE: A-210

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 61-02248B

NAME & ADDRESS: MAGIC WEST INC
PO BOX 475
RUPERT ID 83350

SOURCE: GROUNDWATER

QUANTITY: 0.08 CFS
8.0 AFY

PRIORITY DATE: 04/03/1939

POINT OF DIVERSION: T05S R10E S29 SWSE Within ELMORE County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
INDUSTRIAL		08-15 07-01	0.08 CFS 8.0 AFY

INDUSTRIAL USE IS FOR POTATO PROCESSING PLANT

PLACE OF USE: INDUSTRIAL Within ELMORE County
T05S R10E S29 SWSE

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

THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER
IN BASIN 61 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER
RIGHTS IN BASIN 61:

WATER RIGHT NO	SOURCE
NONE	NONE

THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER
IN BASIN 61 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER
RIGHTS IN THE SNAKE RIVER BASIN:

WATER RIGHT NO	SOURCE
NONE	NONE

ALL WATER RIGHTS WITHIN BASIN 61 ARE FROM CONNECTED SOURCES
OF WATER IN THE SNAKE RIVER BASIN AND SHALL BE ADMINISTERED
CONJUNCTIVELY

EXPLANATORY MATERIAL: BASIS OF CLAIM - LICENSE
RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO SECTION 42-1425 IDAHO CODE.

AJ5856NP

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

DATE: FEB-12-1999
PAGE: A-211

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 61-02248B (CONI)

EXPLANATORY MATERIAL: (CONI)

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PURPOSE OF USE PURSUANT
TO SECTION 42-1425, IDAHO CODE
RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO
SECTION 42-1425, IDAHO CODE.
RIGHT NO 61-07189 IS ALSO DIVERTED THROUGH POINT OF
DIVERSION DESCRIBED ABOVE
WATER TEMPERATURE MEASURED AT 112 DEGREES F.
USE OF THIS RIGHT IS COMBINED WITH WATER FROM THE CITY OF
GLENN'S FERRY.

AJ5856NP

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

DATE: FEB-12-1999
PAGE: A-593

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 61-07189

NAME & ADDRESS: MAGIC WEST INC
PO BOX 475
RUPERT ID 83350

SOURCE: GROUNDWATER

QUANTITY: 0 67 CFS
58 0 AFY

PRIORITY DATE: 07/10/1974

POINT OF DIVERSION: T05S R10E S29 SWSE Within ELMORE County

PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
INDUSTRIAL 08-15 07-01 0 67 CFS
58 0 AFY

INDUSTRIAL USE IS FOR POTATO PROCESSING PLANT.

PLACE OF USE: INDUSTRIAL Within ELMORE County
T05S R10E S29 SWSE

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

THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER
IN BASIN 61 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER
RIGHTS IN BASIN 61:

WATER RIGHT NO	SOURCE
NONE	NONE

THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER
IN BASIN 61 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER
RIGHTS IN THE SNAKE RIVER BASIN:

WATER RIGHT NO	SOURCE
NONE	NONE

ALL WATER RIGHTS WITHIN BASIN 61 ARE FROM CONNECTED SOURCES
OF WATER IN THE SNAKE RIVER BASIN AND SHALL BE ADMINISTERED
CONJUNCTIVELY

EXPLANATORY MATERIAL: BASIS OF CLAIM - LICENSE

AJ5856NP

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

DATE: FEB-12-1999
PAGE: A-594

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 61-07189 (CONI)

EXPLANATORY MATERIAL: (CONI)

WATER TEMPERATURE MEASURED AT 112 DEGREES F.
USE OF THIS RIGHT IS COMBINED WITH WATER FROM THE CITY OF
GLENN FERRY
RIGHT NO. 61-02248B IS ALSO DIVERTED THROUGH POINT OF
DIVERSION DESCRIBED ABOVE