



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

January 3, 2007

VIA EMAIL to: tjb@racinelaw.net

T.J. Budge
Racine Olson Nye Budge & Bailey
PO Box 1391
Pocatello, ID 83204-1391

Re: SRBA Subcase No. 29-2379

Dear T.J.:

This letter confirms that you have agreed to withdraw the Motion to Amend the Partial Decree for the above listed water right provided that certain explanatory language be included for this water right. I have enclosed with this letter a copy of the water right description including the explanatory language that the Idaho Department of Water Resources (Department) agreed to include on the above listed water right, owned by Carl and Nola Rae Phillips. Also included is a colored copy of Map A, which is referred to in the explanatory language for the water right.

As we discussed, the Department's database will be updated to include the explanatory language in the water right description. A copy of the water right description with Map A attached will also be linked in the Department's document management system to the above listed water right and a hard copy will be placed in the water right file.

If you have any questions, please contact Ray Williams at (208) 287-4815.

Very Truly Yours,

A handwritten signature in cursive script, reading "Candice McHugh".

Candice McHugh
Deputy Attorney General, IDWR

cc: Ernest Carlsen, IDWR

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

RIGHT NUMBER: 29-2379

NAME AND ADDRESS: NOLA RAE PHILLIPS
2884 W 1400 S
ABERDEEN ID 83210

CARL L PHILLIPS
2884 W 1400 S
ABERDEEN ID 83210

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 2.560 CFS
1,372.00 AFY

PRIORITY DATE: 10/22/1956

POINT OF
DIVERSION:

T07S R39E S17 NWSW Within CARIBOU County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	2.560 CFS 1,372.00 AFY
STOCKWATER	01/01 12/31	0.090 CFS

PLACE OF USE: IRRIGATION in CARIBOU County

T07S R38E S24	NENE	1.00	T07S R38E S24	SENE	3.00
T07S R39E S17	NWSW	32.00	T07S R39E S17	SWSW	40.00
T07S R39E S18	NESE	5.00	T07S R39E S18	SESE	5.00
T07S R39E S19 Lot 3		11.00	T07S R39E S19 Lot 4		15.00
T07S R39E S19	NENE	15.00	T07S R39E S19	SWNE	28.00
T07S R39E S19	SENE	39.00	T07S R39E S19 Lot 2	SWSW	5.00
T07S R39E S19	NESE	40.00	T07S R39E S19	NWSE	20.00
T07S R39E S19	SWSE	12.00	T07S R39E S19	SESE	4.00
T07S R39E S20	NWNW	40.00	T07S R39E S20	SWNW	40.00
T07S R39E S20	NWSW	37.00			

STOCKWATER same as IRRIGATION

392 ACRES TOTAL

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.

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

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

At the time of the recommendation and partial decree in the SRBA, the relationship between an existing fence line and the west quarter-quarter section line marking the east boundary of the place of use for this water right was unclear. The map overlay showed the existing fence line approximately 160-200 feet east of the west quarter-quarter section line (See Map "A" attached hereto), which means the place of use for this water right may include lands in the east half of the southwest quarter, section 17, T07S, R39E, B.M., and the east half of the northwest quarter and the east half of the northeast of the southwest quarter, section 20, T07S, R39E, B.M. However, other information indicates that the existing fence line may in fact approximate the west quarter-quarter section line. In either case, irrigation should be allowed up to the fence line, in accordance with historical practice. If a full land title survey or court order or stipulation settles all boundary disputes, and concludes that the east half of the southwest quarter, section 17, T07S, R39E, B.M., and the east half of the northwest quarter and the east half of the northeast quarter of the southwest quarter, section 20, T07S, R39E, B.M., should be part of this water right's place of use, then a correction to the place of use description for this water right may be needed. If the right holder requests the correction in writing, supported by sufficient documentation, and if allowed by law, a formal transfer pursuant to I.C. 42-222 shall not be required because no physical on-the-ground change would occur. However, no correction to the number of acres shall be allowed.

Water Right 29-2379

800 0 800 1600 Feet

T 7 South R 39 East

East Fence Line

Legend

-  Recommended POU
-  Area Outside Recommended POU
-  Sections
-  QQ

