



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

January 25, 2007

Special Master Terry Dolan
Snake River Basin Adjudication
253 3rd Ave. N.
Twin Falls, ID 83301

RE: Partial Decree No. 47-14532 (Overturf)

Dear Special Master Dolan:

As requested in the December 21, 2006 status conference for water right 47-14532, IDWR has obtained further information from the claimant that may clear up any remaining confusion about errors in the partial decree.

Glen and Constance Overturf claimed water right 47-14532 in the SRBA on December 14, 1988. They claimed on a groundwater use of .06 cfs for domestic and stockwater purposes. The claimed point of diversion was located in the NENWNW of T9S R 14E Section 20. The claimed place of use was the NWNW of T9S R14E Section 20. IDWR recommended right 47-14532 as claimed the Director's Report for Domestic and Stockwater filed in 1998. No objections were filed and the right was decreed as recommended on July 2, 1999.

The proceedings regarding water right 47-14532 stem from a Notice of Security Interest in a Water Right (Notice) received by the department in June 2006. The mortgage attached to the Notice as evidence of the security interest listed Manuel H and Elvira S. Bettencourt, as well as Michael and Christina Machado, as mortgagors. The lender listed was the D. L. Evans Bank in Twin Falls. Property involved in the mortgage was listed as the NWNW of T9S R14E Section 20. Also noted in the mortgage were water rights 47-14532 and 47-14980¹.

In processing the Notice, IDWR discovered that the partial decree issued on right 47-14532 contained possible errors in the place of use because of ownership issues.

¹ Water right 47-14980 was an uncontested right partially decreed to a Ben Vandenberg in July of 1999. This right is not at issue in these proceedings.

Twin Falls County records indicated that Bettencourt owned the NWNW of Sec. 20, the location claimed by the Overturfs and recommended by IDWR. Further research indicated the Overturfs owned the SWNW, part of the NENW and part of the SENW of Section 20, not the NWNW.

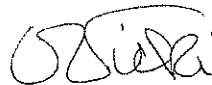
On June 12, IDWR notified the claimants of the discovery and suggested they file either a motion to set-aside or a motion to file late claim with the SRBA Court in order to correct the error in the place of use of water right 47-14532. On October 27, 2006, the court received correspondence from the Overturfs noting their property actually lies in the SENW and the NENW of Section 20. The claimants also asked the court to correct the description of their water right.

In the December 2006 hearing on this right, it was evident that confusion still remained between IDWR and the claimant on exactly where the well for this right was located. IDWR agreed to send the claimant an aerial photo of the property so she could indicate the location of the well and return the photo to the department. Based on the information received from the Overturfs, IDWR believes the point of diversion for the right can be more accurately described in the SENW of Section 20. The place of use can be more accurately described as the SWNW and SENW of Section 20. As mentioned earlier, the Overturfs are the owner of record for these portions of Section 20.

Included with this letter is an updated recommendation of right 47-14532 that reflects what IDWR feels is the more precise description of the right. Also enclosed for the court's convenience are copies of the original claim, the partial decree of right 45-14532 and the aerial photo showing the location of the well.

It is unfortunate that the error in the legal description of the right was carried over from the claim into both the recommendation and partial decree of the right. But it appears to IDWR that the error is clerical in nature and therefore correctable under Rule 60(a), Idaho Rules of Civil Procedure. IDWR therefore requests the Court to take whatever action it deems appropriate to do so. Should you require any further assistance in this matter, please don't hesitate to contact me at 208-287-4816.

Sincerely yours,



Vicki Kelly
Paralegal
Idaho Department of Water Resources

Enclosures
cc: Constance Overturf

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

RIGHT NUMBER: 47-14532

NAME AND ADDRESS: GLEN OVERTURF
19526 HWY 30
BUHL ID 83316

CONSTANCE M OVERTURF
19526 HWY 30
BUHL ID 83316

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.060 CFS

The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 07/01/1908

POINT OF
DIVERSION:

T09S R14E S20 SENW Within TWIN FALLS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	1/01 12/31	0.040 CFS
STOCKWATER	1/01 12/31	0.020 CFS

PLACE OF USE: STOCKWATER in TWIN FALLS County

T09S R14E S20	SWNW	T09S R14E S20	SENW
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DOMESTIC in TWIN FALLS County

T09S R14E S20	SWNW	T09S R14E S20	SENW
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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 is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Parcel No. RP09S14E202400

Form No. 42-1409 (2) b 9/288

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Identification No. 147-14332
Date Received 12/14/88
Receipt Number

**NOTICE OF CLAIM
TO A
WATER RIGHT**
ACQUIRED UNDER STATE LAW
For Domestic and/or Stockwater Purposes
Where Daily Use is less than 13,000 gallons per day.

Filing Fee \$25

Please type or print clearly

1. Name of Claimant (s) Glen & Constance Overton Phone (209) 543-9700
Mailing Address Route 3 Buhl Idaho Zip 83316
2. Date of Priority (Only one per claim) July 1/1908 Month/Day/Year
3. Source of water supply (Check one) ☒ Groundwater or Other () (a) _____
which is tributary to (b) _____ Name or kind of source
4. Location of point of diversion is: Township 9S Range 14E
Section 20 NE 1/4 of 11W 1/4 of NW 1/4, Gov. Lot 14E BM.
County of Twin Falls
Additional points of diversion if any: _____
5. Description of existing diversion works (Ditches, Weirs, Pumps, Pipelines, Headgate Etc.), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. Ditch originally 90 ft well dug 1937 well deepened 1937 to 120 ft
6. Water is claimed for the following: (limited to Domestic and/or Stockwater only. See Instructions.)
For domestic purposes from Jan 1 to Dec 31 amount .84 (cfs)
For 40 sheep purposes from Jan 1 to Dec 31 amount .02 (cfs)
7. Total quantity claimed .86 (cfs)
8. Total consumptive use claimed is de minimus
9. Non-irrigation uses. Describe fully (Domestic: give number of households served if single ownership; Stockwater: Type and Number of livestock) Domestic 2 acre 5/7 cattle 43 sheep

32 x 11

32 x 11

10. Place of use is: Township: 9 S Range 14 E
Section 20 NW 1/4 of NW 1/4, Govt. Lot _____, B.M. _____
County of Twin Falls for (Circle One) Domestic Stock Domestic and Stock
Additional places of use, if any _____

11. In which county (ies) are lands listed above as place of use located? Twin Falls
12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.
13. Describe any other water rights used at the same place and for the same purposes as described above.

14. Remarks: _____
15. Basis of Claim (Circle One) Beneficial Use Posted Notice License Permit Decree
Court _____ Decree Date _____ Plaintiff vs Defendant _____
If applicable provide IDWR Water Right Number _____

16. Signature (a)
(a.) By signing below, I/we acknowledge that I/we have received, read and understood the form entitled "How you will receive notice in the Snake River Basin Adjudication". (b.) I/we do X do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of Attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) Jonathan M. Gustaf Date 12-14-88
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____
of _____ Organization _____ Title _____ that I have signed the foregoing
document in the space below as _____ of _____ Organization _____
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____
Title and Organization _____

State of Idaho/cr _____ } SS.
County of TF }

Subscribed and sworn (or affirmed) before me this 14 day of Dec 19 88

SEAL

Notary Public Don White

Residing at TF

My Commission Expires 6/94

Last Name _____ Ident No. _____

Copies: White-State, Yellow-Claimant

32 x 10

32 x

1999 JUL 02 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 47-14532

NAME AND ADDRESS: CONSTANCE OVERTURE
 GLEN OVERTURE
 RT 3
 BUHL, ID 83316

SOURCE: GROUNDWATER

QUANTITY: 0.06 CFS

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

PRIORITY DATE: 07/01/1908

POINT OF DIVERSION: T09S R14E S20 NENWNW Within Twin Falls County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic 1 HOUSE	01-01 TO 12-31	0.04 CFS
	Stockwater	01-01 TO 12-31	0.02 CFS

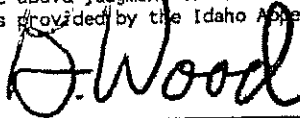
PLACE OF USE:	Stockwater		Within Twin Falls County
	T09S R14E S20	NWNW	
	Domestic		Within Twin Falls County
	T09S R14E S20	NWNW	

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.

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

2004-2005

47-14980

RP05514E203000

BETTENCOURT, MANUEL R

NWNW

NENW

47-14532

RP05514E202400

OVERTURF, GLEN F ET UX

SWNW

SENN