



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

January 6, 2009

Clerk of the SRBA Court
P.O. Box 2707
Twin Falls, ID 83303-2707

Re: Packsaddle Properties LLC 22-13731

To the Clerk of the SRBA Court:

The Idaho Department of Water Resources ("IDWR") recently discovered that the partial decree issued in the above-referenced subcase contains errors. It appears the errors were generated sometime in between IDWR's filing of a Notice of Completed Administrative Proceeding ("NCAP") for this subcase dated March 10, 2008, that reflected Transfer No. 73910, and the issuance of the partial decree. The partial decree does not match the March NCAP, and neither the March NCAP nor the partial decree is correct. For instance, the partial decree is missing remarks in the source, quantity, and purpose and period of use sections and contains remarks that have numerical errors.

Therefore, IDWR respectfully requests the Court set aside the partial decree previously filed and re-issue the partial decree reflective of the NCAP dated December 1, 2008. The Court returned the December NCAP to IDWR with a note that it was void as the partial decree had been issued prior to receipt of the corrected NCAP. Thus, enclosed for the Court's convenience and consideration is the corrected recommendation (the recommendation from the December NCAP) for this subcase. If you have questions about this matter, please contact me at (208) 287-4810.

Sincerely,

A handwritten signature in black ink that reads "Andrea L. Courtney".

Andrea L. Courtney

Enc.

Cc: Packsaddle Properties LLC
Denise Kidman

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

RIGHT NUMBER: 22-13731

NAME AND ADDRESS: PACKSADDLE PROPERTIES LLC
PO BOX 631
DRIGGS ID 83221

SOURCE: GROUND WATER

TRIBUTARY:

The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.

QUANTITY: 0.180 CFS
46.300 AFY

This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

The ponds established by the storage of water under rights 22-13727, 22-13729, & 22-13731 shall not exceed a total capacity of 29.1 acre feet or a total surface area of 7.3 acres.

This right authorizes the diversion of an annual total of 5.0 af to be used for the initial filling of the ponds, for the replacement of losses caused by seepage and evaporation from the ponds.

Rights 22-13729 and 22-13731 when combined shall not exceed a total diversion rate of 1.92 cfs, a total annual maximum diversion volume of 384.3 af.

The rights listed below are limited to a total combined diversion rate of 2.84 cfs. Combined Right Nos.: 22-13727, 22-13729, 22-13731.

The rights listed below are limited to a total combined diversion rate of 2.36 cfs for irrigation. Combined Right Nos.: 22-13727, 22-13729, 22-13731.

PRIORITY DATE: 08/09/1981

This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

POINT OF DIVERSION: T05N R45E S6 NESESW Within TETON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DIVERSION TO STORAGE	01/01 12/31	0.030 CFS
FIRE PROTECTION STORAGE	01/01 12/31	5.00 AFY
AEETHETIC STORAGE	01/01 12/31	5.00 AFY
IRRIGATION	04/15 10/31	0.150 CFS 41.30 AFY

Water shall not be diverted from fire protection storage except to fight or repel an existing fire.

PLACE OF USE: IRRIGATION in TETON County

T05N R45E S06	NESW	32.30	T05N R45E S06 Lot 6 NWSW	17.70
T05N R45E S06 Lot 7 SWSW		32.00	T05N R45E S06	SESSEW 28.60

FIRE PROTECTION STORAGE in TETON County

T05N R45E S06	NESW	T05N R45E S06 Lot 6	NWSW
T05N R45E S06 Lot 7	SWSW	T05N R45E S06	SESW

AEETHETIC STORAGE in TETON County

T05N R45E S06	NESW	T05N R45E S06 Lot 6	NWSW
T05N R45E S06 Lot 7	SWSW	T05N R45E S06	SESW

110.6 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 110.6 acres in a single irrigation season. Combined Right Nos.: 22-13727, 22-13729, 22-13731.

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

This right is based upon an enlargement of Right No. 22-13729 pursuant to Section 42-1426, Idaho Code.

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 - Beneficial Use

Failure of the right holder to comply with the conditions of approved transfer 73910 is cause for the Director to rescind approval of the transfer.

Right No. 22-13729 is also diverted through point of diversion described above.

The approved transfer 73910 redefines all of the elements of this water right, and the new use of water authorized by this approval shall constitute the full extent of the right.

This right is for an enlargement of 11.8 acres within the place of use described for this right.

If the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.

The right holder shall accomplish the change authorized by approved transfer 73910 by 03/03/2009.

After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.