



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

March 9, 2009

Hon. John Melanson
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

RE: Subcase Nos. 22-2184, 22-2230, 22-7507, 22-11147 & 22-11149

Dear Judge Melanson:

Partial Decrees Pursuant to I.R.C.P. 54(b) were recently issued for the above-referenced subcases.

Water right 22-7507 was recommended by IDWR to the SRBA Court as a permit. This water right was recently licensed, and the license affects the conditions in the overlapping water rights described above. The conditions of the overlapping water rights should be modified so as to accurately reflect the conditions contained in the license for water right 22-7507 to assist in the administration of these water rights.

Accordingly, the Department requests that the Court set aside the partial decrees for these water rights and decree the rights as described in the attached Amended Director's Reports.

I am sending a copy of this letter to Richard F. Smith, the claimant for these water rights, so that he is aware of this issue.

If you should have any questions or comments, please feel free to contact me at (208) 287-4811.

Sincerely,

A handwritten signature in black ink, appearing to read "Garrick L. Baxter", is written over a horizontal line.

Garrick L. Baxter
Deputy Attorney General, IDWR

Enclosures

cc: Richard F. Smith
Michael Holiday

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

T06N R40E S33	NESE	40.00	T06N R40E S33	NWSE	40.00
T06N R40E S33	SWSE	38.00	T06N R40E S33	SESE	39.00
1114 ACRES TOTAL					

This right is limited to the irrigation of 310 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 1114 acres in a single irrigation season. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-11147, 22-11149.

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 No. 22-11149 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

The following rights are diverted through points of diversion described above: 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149.

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

RIGHT NUMBER: 22-2230

NAME AND ADDRESS: RICHARD F SMITH
PO BOX 8
REXBURG ID 83440

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 1.680 CFS
518.00 AFY

The rights listed below are limited to a total combined diversion rate of 10.85 cfs. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149.

Combined
The rights listed below are limited to a total combined diversion rate of 10.17 cfs and to a total combined annual diversion volume of 3899 AF.

Right Nos.: 22-2184, 22-2230, 22-7075, 22-11147, 22-11149.

PRIORITY DATE: 09/18/1963

POINT OF
DIVERSION:

T06N R40E S28 SWSESW Within MADISON County
T06N R40E S33 SWNESW Within MADISON County
T06N R40E S33 SENESW Within MADISON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	1.680 CFS 518.00 AFY

PLACE OF USE: IRRIGATION in MADISON County

T06N R40E S28	NESW	40.00	T06N R40E S28	NWSW	40.00
T06N R40E S28	SWSW	40.00	T06N R40E S28	SESW	40.00
T06N R40E S28	NESE	25.00	T06N R40E S28	NWSE	40.00
T06N R40E S28	SWSE	35.00	T06N R40E S28	SESE	31.00
T06N R40E S29	SWSE	37.00	T06N R40E S29	SESE	37.00
T06N R40E S32	NWNE	40.00	T06N R40E S32	SWNE	39.00
T06N R40E S32	NESW	31.00	T06N R40E S32	NWSE	40.00
T06N R40E S33	NENE	23.00	T06N R40E S33	NWNE	40.00
T06N R40E S33	SWNE	37.00	T06N R40E S33	SENE	37.00
T06N R40E S33	NENW	40.00	T06N R40E S33	NWNW	40.00
T06N R40E S33	SWNW	37.00	T06N R40E S33	SENW	40.00
T06N R40E S33	NESW	33.00	T06N R40E S33	NWSW	39.00
T06N R40E S33	SWSW	39.00	T06N R40E S33	SESW	37.00

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

T06N R40E S33	NESE	40.00	T06N R40E S33	NWSE	40.00
T06N R40E S33	SWSE	38.00	T06N R40E S33	SESE	39.00
1114 ACRES TOTAL					

This right is limited to the irrigation of 148 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 1114 acres in a single irrigation season. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-11147, 22-11149.

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 No. 22-11149 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

The following rights are diverted through points of diversion described above: 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149.

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

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

RIGHT NUMBER: 22-7075

NAME AND ADDRESS: RICHARD F SMITH
PO BOX 8
REXBURG ID 83440

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 4.940 CFS
1,953.00 AFY

The rights listed below are limited to a total combined diversion rate of 10.85 cfs. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149.

Combined The rights listed below are limited to a total combined diversion rate of 10.17 cfs and to a total combined annual diversion volume of 3899 AF.

Right Nos.: 22-2184, 22-2230, 22-7075, 22-11147, 22-11149.

PRIORITY DATE: 07/05/1973

POINT OF
DIVERSION:

T06N R40E S28 SWSESW Within MADISON County
T06N R40E S33 SWNESW Within MADISON County
T06N R40E S33 SENESW Within MADISON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 11/01	4.940 CFS 1,953.00 AFY

1 The use of water for irrigation under this right may begin as early as April provided other elements of the right are not exceeded. The use of water before May 1 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in MADISON County

T06N R40E S28	NESW	40.00	T06N R40E S28	NWSW	40.00
T06N R40E S28	SWSW	40.00	T06N R40E S28	SESW	40.00
T06N R40E S28	NESE	25.00	T06N R40E S28	NWSE	40.00
T06N R40E S28	SWSE	35.00	T06N R40E S28	SESE	31.00
T06N R40E S29	SWSE	37.00	T06N R40E S29	SESE	37.00
T06N R40E S32	NWNE	40.00	T06N R40E S32	SWNE	39.00
T06N R40E S32	NESW	31.00	T06N R40E S32	NWSE	40.00
T06N R40E S33	NENE	23.00	T06N R40E S33	NWNE	40.00
T06N R40E S33	SWNE	37.00	T06N R40E S33	SENE	37.00
T06N R40E S33	NENW	40.00	T06N R40E S33	NWNW	40.00

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

T06N R40E S33	SWNW	37.00	T06N R40E S33	SENW	40.00
T06N R40E S33	NESW	33.00	T06N R40E S33	NWSW	39.00
T06N R40E S33	SWSW	39.00	T06N R40E S33	SESW	37.00
T06N R40E S33	NESE	40.00	T06N R40E S33	NWSE	40.00
T06N R40E S33	SWSE	38.00	T06N R40E S33	SESE	39.00
1114 ACRES TOTAL					

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

2230, The rights listed below are limited to the irrigation of a combined total of 1114 acres in a single irrigation season. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-11147, 22-11149.

This right is limited to the irrigation of 558 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 point of diversion pursuant to Section 42-1425, Idaho Code.

The following rights are diverted through points of diversion described above: 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149.

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

T06N R40E S33	SWSW	39.00	T06N R40E S33	SESW	37.00
T06N R40E S33	NESE	40.00	T06N R40E S33	NWSE	40.00
T06N R40E S33	SWSE	38.00	T06N R40E S33	SESE	39.00

1114 ACRES TOTAL

This right is limited to the irrigation of 48 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 1114 acres in a single irrigation season. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-11147, 22-11149.

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 - Beneficial Use

The following rights are diverted through points of diversion described above: 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149.

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

RIGHT NUMBER: 22-11149

NAME AND ADDRESS: RICHARD F SMITH
PO BOX 8
REXBURG ID 83440

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.570 CFS
175.00 AFY

The rights listed below are limited to a total combined diversion rate of 10.85 cfs. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149.

The rights listed below are limited to a total combined diversion rate of 10.17 cfs and to a total combined annual diversion volume of 3899 AF.

Combined

Right Nos.: 22-2184, 22-2230, 22-7075, 22-11147, 22-11149.

PRIORITY DATE: 04/15/1981

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:

T06N R40E S28 SWSESW Within MADISON County
T06N R40E S33 SWNESW Within MADISON County
T06N R40E S33 SENESW Within MADISON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.570 CFS 175.00 AFY

PLACE OF USE: IRRIGATION in MADISON County

T06N R40E S28	NESW	40.00	T06N R40E S28	NWSW	40.00
T06N R40E S28	SWSW	40.00	T06N R40E S28	SESW	40.00
T06N R40E S28	NESE	25.00	T06N R40E S28	NWSE	40.00
T06N R40E S28	SWSE	35.00	T06N R40E S28	SESE	31.00
T06N R40E S29	SWSE	37.00	T06N R40E S29	SESE	37.00
T06N R40E S32	NWNE	40.00	T06N R40E S32	SWNE	39.00
T06N R40E S32	NESW	31.00	T06N R40E S32	NWSE	40.00
T06N R40E S33	NENE	23.00	T06N R40E S33	NWNE	40.00
T06N R40E S33	SWNE	37.00	T06N R40E S33	SENE	37.00
T06N R40E S33	NENW	40.00	T06N R40E S33	NWNW	40.00
T06N R40E S33	SWNW	37.00	T06N R40E S33	SENW	40.00

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

T06N R40E S33	NESW	33.00	T06N R40E S33	NWSW	39.00
T06N R40E S33	SWSW	39.00	T06N R40E S33	SESW	37.00
T06N R40E S33	NESE	40.00	T06N R40E S33	NWSE	40.00
T06N R40E S33	SWSE	38.00	T06N R40E S33	SESE	39.00
1114 ACRES TOTAL					

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

The rights listed below are limited to the irrigation of a combined total of 1114 acres in a single irrigation season. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-11147, 22-11149.

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

This right is based upon an enlargement of Right No. 22-2184 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

This right is for an enlargement of 50 acres within the place of use described for this right.

The following rights are diverted through points of diversion described above: 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149.