



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

May 27, 2009

Special Master Terrence Dolan
Snake River Basin Adjudication
253 3rd Ave. N.
P.O. Box 2707
Twin Falls, ID 83303-2707

RE: SRBA Subcase Nos. 35-2314, 35-2441 & 35-13601 (Ward)

Dear Special Master Dolan:

As a result of the *Motions to Set Aside Partial Decrees* filed in the above-referenced subcases, the Court requested the Department work with the claimant and the State of Idaho in preparing draft "Proposed Partial Decrees" to illustrate how the partial decrees for these water rights should appear if they are set aside. Accordingly, I am attaching draft "Proposed Partial Decrees" for your consideration. The Department has previously shared the Proposed Partial Decrees with the claimant and the State of Idaho, and the parties have no objections to the water rights being decreed as described therein.

If you have any questions regarding the Proposed Partial Decrees, please contact me at 287-4810.

Sincerely,

A handwritten signature in black ink, reading "Andrea L. Courtney". The signature is written in a cursive style with a large, stylized "A" and "C".

Andrea L. Courtney
Deputy Attorney General, IDWR

Encls.

Cc: Robert L. Harris
David J. Barber
Ernie Carlsen

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

RIGHT NUMBER: 35-2314

NAME AND ADDRESS: VIOLA J WARD
1305 S 2 E
REXBURG ID 83440

SHELLY WARD
1305 S 2 E
REXBURG ID 83440

NEAL D WARD
1305 S 2 E
REXBURG ID 83440

DE LOY Z WARD
1305 S 2 E
REXBURG ID 83440

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 6.560 CFS
1640.0 AFY

Right Nos. 35-2314, 35-2441, 35-13601, and 35-13639 are limited to a total combined diversion rate of 10.5 cfs and to a total combined annual diversion volume of 2656 AF.

PRIORITY DATE: 03/26/1953

POINT OF DIVERSION:

T01S R34E S26 NESWNW Within BINGHAM County

T01S R34E S35 SWSWNE Within BINGHAM County

T01S R34E S35 SWNW Within BINGHAM County

The following rights are also diverted through point(s) of diversion described above: 35-2441, 35-13601 and 35-13639.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	4/01 10/31	6.560 CFS 1640.0 AFY

PLACE OF USE: IRRIGATION in BINGHAM County

T01S R34E S26	SWNE	3.00	T01S R34E S26	NWNW	40.00
T01S R34E S26	SWNW	40.00	T01S R34E S26	SENW	34.00
T01S R34E S26	NESW	38.00	T01S R34E S26	NWSW	40.00
T01S R34E S26	SWSW	39.00	T01S R34E S26	SESW	20.00
T01S R34E S26	NWSE	6.00	T01S R34E S34	NENE	40.00
T01S R34E S34	SENE	20.00	T01S R34E S34	NESE	18.00

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

T01S R34E S34	SESE	4.00	T01S R34E S35	NWNE	12.00
T01S R34E S35	SWNE	22.00	T01S R34E S35	NENW	36.00
T01S R34E S35	NWNW	40.00	T01S R34E S35	SWNW	37.00
T01S R34E S35	SENE	40.00	T01S R34E S35	NESW	40.00
T01S R34E S35	NWSW	40.00	T01S R34E S35	SWSW	25.00
T01S R34E S35	SESW	10.00	T01S R34E S35	NWSE	20.00

664 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 664 acres in a single irrigation season. Combined Right Nos.: 35-2314, 35-2441, 35-13601, and 35-13639.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 410 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 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.

Right Nos. 35-13601 and 35-13639 are enlargements of this right pursuant to Section 42-1426, Idaho Code.

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

RIGHT NUMBER: 35-2441

NAME AND ADDRESS: NEAL D WARD
1305 S 2 E
REXBURG ID 83440

SHELLY WARD
1305 S 2 E
REXBURG ID 83440

VIOLA J WARD
1305 S 2 E
REXBURG ID 83440

DE LOY Z WARD
1305 S 2 E
REXBURG ID 83440

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 3.940 CFS
788.0 AFY

Right Nos. 35-2314, 35-2441, 35-13601, and 35-13639 are limited to a total combined diversion rate of 10.5 cfs and to a total combined annual diversion volume of 2656 AF.

PRIORITY DATE: 10/21/1955

POINT OF DIVERSION:

T01S R34E S26 NESWNW Within BINGHAM County

T01S R34E S35 SWSWNE Within BINGHAM County

T01S R34E S35 SWNW Within BINGHAM County

The following rights are also diverted through point(s) of diversion described above: 35-2314, 35-13601 and 35-13639.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	4/01 10/31	3.940 CFS 788.0 AFY

PLACE OF USE: IRRIGATION in BINGHAM County

T01S R34E S26	SWNE	3.00	T01S R34E S26	NWNW	40.00
T01S R34E S26	SWNW	40.00	T01S R34E S26	SENW	34.00
T01S R34E S26	NESW	38.00	T01S R34E S26	NWSW	40.00
T01S R34E S26	SWSW	39.00	T01S R34E S26	SESW	20.00
T01S R34E S26	NWSE	6.00	T01S R34E S34	NENE	40.00
T01S R34E S34	SENE	20.00	T01S R34E S34	NESE	18.00

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

T01S R34E S34	SESE	4.00	T01S R34E S35	NWNE	12.00
T01S R34E S35	SWNE	22.00	T01S R34E S35	NENW	36.00
T01S R34E S35	NWNW	40.00	T01S R34E S35	SWNW	37.00
T01S R34E S35	SESW	40.00	T01S R34E S35	NESW	40.00
T01S R34E S35	NWSW	40.00	T01S R34E S35	SWSW	25.00
T01S R34E S35	SESW	10.00	T01S R34E S35	NWSE	20.00

664 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 664 acres in a single irrigation season. Combined Right Nos.: 35-2314, 35-2441, 35-13601, and 35-13639.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 197 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 Nos. 35-13601 and 35-13639 are enlargements of this right pursuant to Section 42-1426, Idaho Code.

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

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

RIGHT NUMBER: 35-13601

NAME AND ADDRESS: DE LOY Z WARD
1305 S 2 E
REXBURG ID 83440

NEAL D WARD
1305 S 2 E
REXBURG ID 83440

SHELLY WARD
1305 S 2 E
REXBURG ID 83440

VIOLA J WARD
1305 S 2 E
REXBURG ID 83440

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.400 CFS
92.0 AFY

Right Nos. 35-2314, 35-2441, 35-13601, and 35-13639 are limited to a total combined diversion rate of 10.5 cfs and to a total combined annual diversion volume of 2656 AF.

PRIORITY DATE: 04/01/1984

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:

T01S R34E S26 NESWNW Within BINGHAM County
T01S R34E S35 SWSWNE Within BINGHAM County
T01S R34E S35 SWNW Within BINGHAM County

The following rights are also diverted through point(s) of diversion described above: 35-2314, 35-2441 and 35-13639.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.400 CFS 92.0 AFY

PLACE OF USE: IRRIGATION in BINGHAM County

T01S R34E S26	SWNE	3.00	T01S R34E S26	NWNW	40.00
T01S R34E S26	SWNW	40.00	T01S R34E S26	SENW	34.00
T01S R34E S26	NESW	38.00	T01S R34E S26	NWSW	40.00
T01S R34E S26	SWSW	39.00	T01S R34E S26	SESW	20.00
T01S R34E S26	NWSE	6.00	T01S R34E S34	NENE	40.00

Proposed Partial Decree

35-13601

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

T01S R34E S34	SENE	20.00	T01S R34E S34	NESE	18.00
T01S R34E S34	SESE	4.00	T01S R34E S35	NWNE	12.00
T01S R34E S35	SWNE	22.00	T01S R34E S35	NENW	36.00
T01S R34E S35	NWNW	40.00	T01S R34E S35	SWNW	37.00
T01S R34E S35	SENW	40.00	T01S R34E S35	NESW	40.00
T01S R34E S35	NWSW	40.00	T01S R34E S35	SWSW	25.00
T01S R34E S35	SESW	10.00	T01S R34E S35	NWSE	20.00

664 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 664 acres in a single irrigation season. Combined Right Nos.: 35-2314, 35-2441, 35-13601, and 35-13639.

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

This right is based upon an enlargement of Right Nos. 35-2314 and 35-2441 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 23 acres within the place of use described for this right.