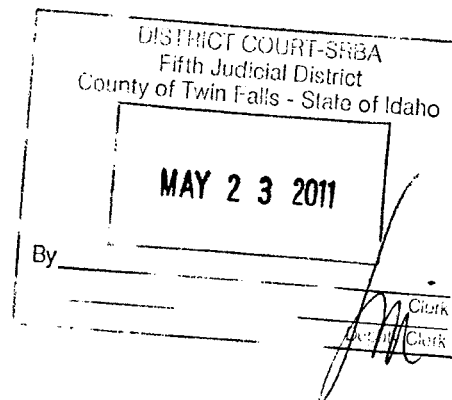




STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

May 20, 2011

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



RE: Subcase Nos. 63-21363 & 63-32241 (Eureka Ditch Company No. 2)

Dear Judge Wildman:

The Director's Report for Basin 63, Part 3 was filed with the SRBA Court on December 19, 2006. The deadline to file objections was June 20, 2007. Contained in the Director's Report for Basin 63, Part 3 were recommendations for water right numbers 63-21363 & 63-32241. No objections were filed to these water right recommendations and partial decrees were issued on January 15, 2009.

It has recently come to the attention of the Department that the recommendations for these water rights contained a clerical error, wherein the Department inadvertently recommended these water rights with a "step down provision" in the quantity description of these water rights. While this water right claimant does own other water rights wherein this provision is necessary because of a prior decree, these beneficial use rights should not contain this provision.

I am attaching Amended Director's Reports wherein the changes concerning removal of the provision is identified in strikeout format for ease of identification. Also, it should be noted that no changes are being proposed to the digital boundary of these water rights, thus no updated maps or compact disks are included with this filing.

Accordingly, it seems appropriate for the Court to set aside the partial decrees pursuant to Rule 60(a) of the Idaho Rules of Civil Procedure and decree the rights as described in the attached Amended Director's Reports.

I am sending a copy of this letter to the claimant, so that it is aware of this error.

If you should have any questions or comments, please feel free to contact me at (208) 287-4813.

Sincerely,

A handwritten signature of Nicholas B. Spencer.

Nicholas B. Spencer
Deputy Attorney General, IDWR

Enclosures

cc: Eureka Ditch Company No. 2
Jan Shurte
Tim Luke

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

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

RIGHT NUMBER: 63-21363
NAME AND ADDRESS: EUREKA DITCH CO NO 2
C/O BILL DORAMUS
21766 HOWE RD
CALDWELL ID 83607

MAY 23 2011

By

Clerk

Dep. Clerk

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 46.000 CFS

~~Whenever it becomes necessary for the watermaster to deliver this right the following condition shall apply. This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and proceeding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities.~~

PRIORITY DATE: 05/11/1950

POINT OF DIVERSION:

T04N R03W S7 SESW Rediversion Within CANYON County
T04N R03W S17 SENW Within CANYON County
T04N R04W S12 NESE Rediversion Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	46.000 CFS
Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only when the natural flow in the Boise River below the Star Bridge in Township 04 North, Range 01 West, Section 18, NE¼ of the SE¼ of the SE¼, Boise Meridian (approximate river mile 33.9) is sufficient for water to be available for diversion at the point of diversion described above, provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.		

PLACE OF USE:

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

This right when combined with Rights No. 63-222D, 63-223K, 63-3572, 63-21361, 621362, and 63-32241 can be used to irrigate up to 2990 acres within the boundary of the Eureka Ditch Company No. 2.

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

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

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAY 23 2011

By _____

Clerk
Deputy Clerk

RIGHT NUMBER: 63-32241

NAME AND ADDRESS: EUREKA DITCH CO NO 2
C/O BILL DORAMUS
21766 HOWE RD
CALDWELL ID 83607

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 24.000 CFS

~~Whenever it becomes necessary for the watermaster to deliver this right the following condition shall apply. This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and proceeding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities.~~

PRIORITY DATE: 07/20/1959

POINT OF DIVERSION:

T04N R03W S7 SESW Rediversion Within ADA County
T04N R03W S17 SENW Within ADA County
T04N R04W S12 NESE Rediversion Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	24.000 CFS
Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only when the natural flow in the Boise River below the Star Bridge in Township 04 North, Range 01 West, Section 18, NE¼ of the SE¼ of the SE¼, Boise Meridian (approximate river mile 33.9) is sufficient for water to be available for diversion at the point of diversion described above, provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.		

PLACE OF USE

This right when combined with Rights No. 63-222D, 63-223K, 63-3572, 63-21361, 63-21362, and 63-21363 can be used to irrigate up to 2990 acres within the boundary of the Eureka Ditch Company No. 2.

The boundary encompassing the place of use for this water right is

described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

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