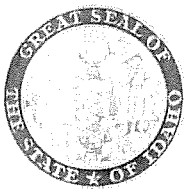


11-5



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

November 1, 2012

Clerk of the District Court
Snake River Basin Adjudication
P.O. Box 2720
Twin Falls, ID 83303-2707

RE: Amended Request for Correction of Error of Partial Decree for Water Right 37-8165

Dear Clerk:

Enclosed is an Amended Request for Correction of Error regarding the partial decree of water right 37-8165. The original Request, submitted July 27, 2012, did not address an error in the point of diversion, which was discovered in a subsequent BLM review of the original Request. In addition, although the corrected recommendation included in the original Request contained a domestic place of use description which had been missing from the partial decree, the Request itself only referenced the missing recreation place of use description—the domestic use was not addressed at all.

This Amended Request addresses the missing recreation place of use noted in the original Request, as well as the errors discovered after that submission. Should you have any further questions, please feel free to contact me at 208-287-4816. Thank you!

Sincerely,

A handwritten signature in cursive script that reads "Vicki Kelly".

Vicki Kelly,
Paralegal

Enc.

cc: BLM
OAG
Magic Mfg.

AMENDED REQUEST FOR CORRECTION OF ERROR

THE IDAHO DEPARTMENT OF WATER RESOURCES (IDWR) HAS IDENTIFIED AN ERROR IN THE SRBA PARTIAL DECREE OF THE WATER RIGHT LISTED BELOW. IDWR REQUESTS THE COURT TO DETERMINE IF IT CAN CORRECT THE ERROR THROUGH ITS NORMAL NOTICE AND HEARING PROCESS, AND IF SO, TO CORRECT THE ERROR ACCORDINGLY. BY COPY OF THIS FORM IDWR IS ALSO NOTIFYING THE OWNER OF THE WATER RIGHT OF THE ERROR IN QUESTION.

WATER RIGHT NO.: 37-8165

NAME OF OWNER LISTED ON THE PARTIAL DECREE: Magic Mfg. Inc.

CURRENT OWNER (IF DIFFERENT) _____

TODAY'S DATE: November 1, 2012

An error exists in the description of the following element(s) of the partial decree:

1. ☐ **Name and Address**

Should be: _____

2. ☐ **Source**

Should be: _____

3. ☐ **Quantity**

Should be: _____

4. ☐ **Priority Date**

Should be: _____

5. ☒ **Point of Diversion**

Should be: T04S R13E S30 NWSENE as licensed instead of T04S R13E S30 NESENE as shown in the Notice of Completed Administrative Proceeding (filed 8/3/11) and subsequent Special Master's Report (issued 11/8/11), Partial Decree (12/30/11) and Amended Partial Decree (1/12/12).

6. ☐ **Instream Flow Beginning and/or Ending Point**

Should be: _____

7. ☐ **Purpose(s) of Use**

Should be: _____

8. ☐ **Period of Year**

Should be: _____

9. ☒ **Place of Use**

Should be: Add RECREATION in GOODING County T04S R13E S30 NESE in addition to the other uses already shown under Place of Use. Add DOMESTIC in GOODING County T04S R13E S30 NESE in addition to the other uses already shown under Place of Use.

10. ☐ **Other Provisions**

Should be: _____

Additional explanation or supporting documentation of the error:

Permit was licensed in 2011 for irrigation, recreation, domestic, heating, fish propagation, aesthetic, commercial, and fish propagation storage purposes. The Notice of Completed Administrative Proceeding (NCAP) of the licensing of the right, which was filed on August 3, 2011, incorrectly did not list the place of use description of the recreation or domestic purposes, omissions which eventually carried over to partial decree. IDWR requests both the recreation and domestic uses, located at T04S R13E S30 NESE, be added to the place of use element of the right.

In addition, the NCAP also listed one of the points of diversion as T04S R13E S30 NESENE. That point of diversion is actually licensed at T04S R13E S30 NWSENE instead. IDWR requests correction of that quarter quarter designation to the NWSENE as licensed.

For more information about the error the Court and/or water right holder should contact the person identified below.

CONTACT PERSON: Vicki Kelly, Paralegal

TELEPHONE NUMBER: 208-287-4816

E-MAIL ADDRESS: vicki.kelly@idwr.idaho.gov

MAILING ADDRESS: Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

A corrected recommendation of the water right is attached.

CERTIFICATE OF SERVICE

I certify that on November 2, 2012, I caused to be served true and correct copies of this AMENDED REQUEST FOR CORRECTION OF ERROR, to the following persons, in the manner indicated and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

2. Copies to:

IDWR Document Repository
P.O. Box 83720
Boise, ID 83720-0098

☐ Overnight Mail
☐ Regular Mail
☒ Hand-Delivered
☐ Facsimile

U.S. Department of Justice
Environment & Nat'l Resources Div.
550 W. Fort St., MSC 033
Boise, ID 83724

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

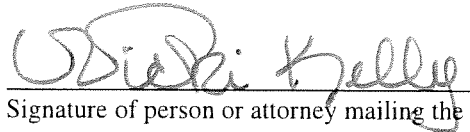
Chief, Natural Resources Division
Office of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449

☐ Overnight Mail
☐ Regular Mail
☒ Hand-Delivered
☐ Facsimile

3. Copy to the Owner:

Magic Mfg. Inc.
716 B E 4900 N
Buhl, ID 83316

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile


Signature of person or attorney mailing the form

10/31/2012

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

RIGHT NUMBER: 37-8165

NAME AND ADDRESS: MAGIC MFG INC
716 B E 4900 N
BUHL ID 83316

SOURCE: WHITE ARROW HOT SPRING

TRIBUTARY: CLOVER CREEK

QUANTITY: 1.930 CFS
1,397.30 AFY

This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.

Fish propagation storage is for an on-stream pond with a total capacity of 1.0 AF. This right authorizes the storage of 1.0 AF in the pond and 0.9 AF to replace evaporation losses from the pond.

Rights 37-810, 37-811, 37-4040 and 37-8165 when combined shall not exceed a total diversion rate of 2.66 cfs for irrigation purposes.

Water diverted under this right is injected into and rediverted from an unnamed stream tributary to Clover Creek. The rate and volume of water rediverted from the unnamed stream under this right shall not exceed the rate and volume of water simultaneously injected into the unnamed stream.

PRIORITY DATE: 06/30/1983

POINT OF
DIVERSION:

T04S R13E S30 ~~NEN~~NWSENE Within GOODING County
T04S R13E S30 NENWSE Injection Within GOODING County
T04S R13E S30 NWSWSE Rediversion Within GOODING County
T04S R13E S31 SWNWNE Rediversion Within GOODING County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	1.930 CFS 532.00 AFY
RECREATION	01/01 12/31	0.300 CFS 217.20 AFY
DOMESTIC	01/01 12/31	0.060 CFS 1.80 AFY
HEATING	01/01 12/31	0.500 CFS 68.40 AFY
FISH PROPAGATION	01/01 12/31	1.930 CFS 1,397.30 AFY
AESTHETIC	01/01 12/31	1.930 CFS 1,397.30 AFY
COMMERCIAL	01/01 12/31	0.250 CFS 106.30 AFY
FISH PROPAGATION STORAGE	01/01 12/31	1.90 AFY

Domestic use is for 3 homes. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.

PLACE OF USE: IRRIGATION in GOODING County

T04S R13E S30	NESE	24.00	T04S R13E S30	SWSE	35.00
T04S R13E S30	SESE	27.00	T04S R13E S31	NENE	24.00

T04S R13E S31 NWNE 23.00

COMMERCIAL in GOODING County

T04S R13E S30 SENE T04S R13E S30 NESE

FISH PROPAGATION in GOODING County

T04S R13E S30 NESE T04S R13E S31 NWNE

FISH PROPAGATION STORAGE in GOODING County

T04S R13E S30 SWSE

HEATING in GOODING County

T04S R13E S30 SENE T04S R13E S30 NESE

DOMESTIC in GOODING County

T04S R13E S30 NESE

RECREATION in GOODING County

T04S R13E S30 NESE

AESTHETIC in GOODING County

T04S R13E S30 NESE

133 ACRES TOTAL

Rights 37-810, 37-811, 37-4040, 37-4041 and 37-8165 when combined shall not exceed the irrigation of 133 acres.

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

This water right enjoys the benefit of subordination of hydropower water right nos. 02-00100, 02-4000A, 02-4001A, 02-02032A, 02-4000B, 02-4001B, 02-02032B, 02-02036, 02-02056, 02-02065, 02-02064, 02-10135, 02-02060, 02-02059, 02-02001B, 02-02001A, 02-02057, 37-02128, 37-02472, 37-02471, 37-20710, 37-20709, 36-02013, 36-02018 and 36-02026 only so long as the average daily flows as measured at the Murphy Gage station meet or exceed the minimum stream flows established by state action.

This right is for the use of trust water and is subject to review 20 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.

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

Commercial use is for a greenhouse facility.

Recreation use is for a pool.

Heating is for 3 homes and a greenhouse facility.

Fish propagation is for 6 raceways and an off-stream pond.

Aesthetic use is for a moat.

The right holder shall not divert water at a rate exceeding what is reasonably necessary for the beneficial use authorized by this right.