

Kelly, Vicki

From: Kelly, Vicki
Sent: Wednesday, December 12, 2012 4:47 PM
To: 'Diana Delaney'
Cc: Spencer, Nick
Subject: 36-2603D



WATERRIGHTS-#4
6096-v1-REQUEST..

Good afternoon Diana

Attached is a copy of correspondence mailed to the court regarding water right 36-2603D. Apparently the court never received the letter when it was sent several years ago. IDWR is resending the letter via email in hopes of getting the errors described in the letter corrected. Please let me know if you have any questions. Thanks very much -- Vicki Kelly, Paralegal



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

November 25, 2009

Diana Delaney
Snake River Basin Adjudication
P.O. Box 2720
Twin Falls, ID 83303-2707

RE: Partial Decree for water right 36-2603D

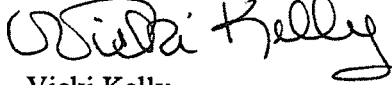
Dear Diana:

Water right 36-2603D was recommended in the Director's Report for Irrigation Uses in Reporting Area 3 (IDWR Basin 36) filed with the SRBA court on November 2, 1992. The recommendation was unobected to and a partial decree was issued on January 15, 1998. A Motion for Leave to File Late Objection was filed in 1999 but was withdrawn shortly thereafter and the right remained as partially decreed in 1998.

In the processing of a change of ownership, it was discovered the right 36-2603D was decreed with an incorrect POU. Water right 36-2603D is a split from water right 36-2603B, which was claimed in the SRBA on March 13, 1990. Prior to the filing of the Director's Report for Basin 36, the assigned water agent spilt the B portion of the right into C and D portions to account for the separate sources claimed for the 36-2603B right. Unfortunately an error occurred in the process and the D portion was recommended to the court with a place of use in section 19 instead of section 29 where the actual place of use is. In the investigation of that error, it was discovered the point of diversion was also incorrectly recommended. The point of diversion for water right 37-2603D should be in the SENENW of Section 29 as claimed, not the NENENW as recommended and decreed. The watermaster agrees that the decreed locations of the point of diversion and place of use are in error and correction of these elements will bring the right into conformance with overlapping right 36-200, which was correctly decreed in 1998.

A copy of the claim of right 37-2603B is attached for the Court's convenience, as well as a copy of the partial decree of right 37-2603D. Would it be possible for the court to correct these errors as clerical mistakes under I.R.C.P. 60(a)?

Should the Court require further assistance in this matter, please don't hesitate to call me at 208-287-4816.

Sincerely,

Vicki Kelly,
Paralegal

Enc.
cc: Brian Patton

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

RECEIVED

AUG 20 1991

CIVIL CASE NUMBER: 39576

Ident. Number: A36-02603B-
Date Received: 3/13/1990
Receipt No: S011518
Received By:

AMENDED *see 8/20/91*

Department of Water Resources
Southern Region Office

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: PRISTINE SPRINGS, INC. 208-326-5687
Address: 4074 N 2000 E
FILER, ID 83328

2. Date of Priority: APR 17, 1964

3. Source: SUNNY BROOK SPRINGS Trib. to: WARM CREEK
ALPHEUS CREEK SNAKE RIVER.

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
09S	17E	28	NW	SW	SW	14	JEROME
		29	SE	NE	NW	9	JEROME

5. Description of diverting works:
CONCRETE FLUME IN ALPHEUS CREEK

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
FISH PROPAGATION	01/01	12/31	27.200		

7. Total Quantity Appropriated is:
27.200 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
FISH PROPAGATION; AESTHETIC; HUNTING

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09S	17E	29	NW	NE	11	FISH	
			SW	NE	9	FISH	

A36-02603B

Page 1

Date: 08/02/91

MICROFILMED

JAN 28 1993

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
09S	17E	29	NE NW	14	FISH	

11. Place of use in counties: JEROME

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:

A36-07130, PERMIT 36-08414 (03/07/1989)

14. Remarks:

LIC. INCORRECTLY DESCRIBES P/D AS LOTS 10 & 14, S29, T9S.

LIC. INCORRECTLY DESCRIBES P/U AS LOTS 9,11&14, S29, T9S, R17E.

15. Basis of Claim: LICENSE

Water Right Number: 32030

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not x wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am _____ Executive Vice President _____ of _____ Title _____

Pristine Springs, Inc.

Organization

, that I have signed the foregoing document in the space below as _____ Executive Vice President _____ of _____ Title _____

Pristine Springs, Inc.

Organization

and that the statements contained in the foregoing document are true and correct.

Rick Eggleston
Signature of Authorized Agent
Rick Eggleston
Executive Vice President

Title and Organization
Pristine Springs, Inc.

8/19/91
Date

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 19 day

of August 19 91

M. J. Smith
Notary Public

Seal

Residing at Boise, Idaho

My Commission Expires 9/96

17. Notice of Appearance:

Notice is hereby given that I, Josephine P. Beeman will be
Print Name

acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Josephine P. Beeman

Address Josephine P. Beeman
DAVIS WRIGHT TREMAINE

702 West Idaho, Suite 700, Boise, ID 83702

Date 15 August 1991

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 36-02603D

1998 JAN 15 AM 11:23

NAME & ADDRESS: PRISTINE SPRINGS INC
201 WARM CREEK ROAD
JEROME ID 83338

SOURCE: SUNNY BROOK SPRINGS TRIBUTARY: WARM CREEK

QUANTITY: 1.9 CFS

FACILITY VOLUME 7,880 CU. FT.
USE OF THIS RIGHT WITH RIGHT NO. 36-00200 IS LIMITED TO A
TOTAL COMBINED FACILITY VOLUME OF 156,770 CU. FT.

PRIORITY DATE: 04/17/1964

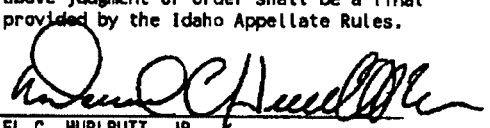
POINT OF DIVERSION: T09S R17E S29 LOT 9 (NENENW) Within JEROME County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	FISH PROPAGATION FISH PROPAGATION,	01-01 12-31	1.9 CFS

PLACE OF USE: FISH PROPAGATION Within JEROME County
T09S R17E S19 Lot 9 (NENW)

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication