

REQUEST FOR CORRECTION OF ERROR

THE IDAHO DEPARTMENT OF WATER RESOURCES (IDWR) HAS IDENTIFIED AN ERROR IN THE CSRBA 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. 91-7139

NAME OF OWNER LISTED ON THE PARTIAL DECREE: Hells Gulch Water Assn

CURRENT OWNER (IF DIFFERENT):

TODAY'S DATE: December 1, 2015

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: The total diversion volume under Quantity element should be corrected to 4.2 AFY rather than 8.4 AFY. The diversion volume for irrigation listed under the Purpose and Period of Use element for irrigation use should be corrected to 3.0 AFY rather than 6.0 AFY. The diversion volume for domestic use listed under the Purpose and Period of Use element for irrigation should be corrected to 1.2 AFY rather than 2.4 AFY.

4. ☐ **Priority Date**

Should be: _____

5. ☐ **Point of Diversion**

Should be: _____

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

Should be: _____

7. ☒ **Purpose(s) of Use**

Should be: The Purpose of Use condition should be corrected to 2 homes rather than 4 homes.

8. ☐ **Period of Year**

Should be: _____

9. ☒ **Place of Use**

Should be: The Place of Use for irrigation and domestic in T47N, R03W, S36, NESE should be deleted. The 2 Acres Total should be corrected to 1 Acre Total.

10. ☐ **Other Provisions**

Should be: _____

Additional explanation or supporting documentation of the error:

Water right 91-7139 was claimed in the CSRBA as licensed for four homes and two acres of irrigation. Two of the homes licensed under water right 91-7139 are owned by Mr. Larry Dahlkey, whose property address is 33321 S Hells Gulch Road, and Mr. Mark Keogh, whose property address is 33303 S Hells Gulch Road (see attached map). The claim was recommended in the Basin 91 Director's Report with the elements of the license, more specifically, the licensed diversion volume, number of acres, and place of use. On November 13, 2015 a partial decree was issued by the Court for water right 91-7139 with purposes of use listed as domestic for four homes and irrigation for two acres.

On October 23, 2014, Mr. Dahlkey filed CSRBA claim 91-7848 stating the Hells Gulch Water Association well that was originally used for Mr. Dahlkey's property had been replaced by drilled well D0061195. The Well Driller's Report for well D0061195 shows the well was drilled in 2012. Because the well drilled in 2012 was not in the same 40-acre tract as the original Hells Gulch Water Association well, an accomplished change in the point of diversion could not be recommended for claim 91-7848. Therefore claim 91-7848 was recommended in the Basin 91 Director's Report as a beneficial use right with a priority date of 2012. The Court issued a partial decree for water right 91-7848 on November 13, 2015.

On August 3, 2015, Mr. Keogh filed a motion to file CSRBA late claim 91-7906. Claim 91-7906 includes a similar statement to CSRBA claim 91-7848 indicating the Hells Gulch Water Association well that was originally used for Mr. Keogh's property had been replaced by drilled well D0061510. The Well Driller's Report for well D0061510 shows the well was drilled in 2013. As of the date of this Request for Correction of Error, the Court has not granted the motion for late claim 91-7906. Like the point of diversion for 91-7848, the claimed point of diversion for 91-7906 is not is the same 40-acre tract as the original Hells Gulch Water Association well, and an accomplished change in the point of diversion cannot be recommended for late claim 91-7906 if the motion to file the late claim is granted. However, similar to 91-7484, IDWR can recommend a beneficial use right with a priority date of 2013, the date well D0061510 was drilled.

If the Court grants the motion to file late claim 91-7906 and a partial decree is issued for 91-7906 consistent with what IDWR can recommend, IDWR requests that the Court also issue an Amended Partial Decree for water right 91-7139 consistent with the attached corrected recommendation to reflect the two homes and one acre of irrigation actually served by the well and water system developed by the Hells Gulch Water Association.

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

CONTACT PERSON: Carter Fritschle, Manager, Adjudication Section

TELEPHONE NUMBER: (208) 287-4917

E-MAIL ADDRESS: Carter.Fritschle@idwr.idaho.gov

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

A corrected recommendation of the water right is attached.

11/24/2015

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

RIGHT NUMBER: 91-7139

NAME AND ADDRESS: HELLS GULCH WATER ASSN
33321 S HELLS GULCH RD
SAINT MARIES ID 83861

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.11 CFS
~~8.4~~ 4.2 AFY

The quantity of water under this right for domestic use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 09/22/1997

POINT OF
DIVERSION: T47N R03W S36 SENE Within KOOTENAI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	0.11 CFS ~~2.4~~ 1.2 AFY
IRRIGATION	03/15 11/15	0.06 CFS ~~6.0~~ 3.0 AFY

Domestic use is for 4 2 homes. Irrigation of lawn, garden and landscaping associated with the homes is authorized under the irrigation component of this right.

PLACE OF USE: IRRIGATION in KOOTENAI County

T47N R03W S36 SENE 1.00 ~~T47N R03W S36 NESE 1.00~~

DOMESTIC in KOOTENAI County

T47N R03W S36 SENE ~~T47N R03W S36 NESE~~

2 1 ACRES TOTAL

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

Parcel Nos. 47N03W-36-1900, and 47N03W-36-2025, ~~47N03W-36-7400 and 47N03W-36-7700~~

91-7139



0 325 650 1,300 Feet



CERTIFICATE OF SERVICE

I certify that on DECEMBER 1, 2015, I caused to be served true and correct copies of this 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
Coeur d'Alene-Spokane River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls ID 83303-2707

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

2. Copies to:

IDWR Document Repository
PO Box 83720
Boise ID 83720-0098

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

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Chief Natural Resources Division
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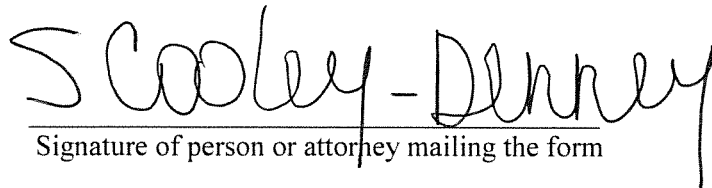
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Signature of person or attorney mailing the form