

REQUEST FOR CORRECTION OF ERROR

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

WATER RIGHT NOS. : 21-111 and 21-112

NAME OF OWNER LISTED ON THE PARTIAL DECREES: North Fork Reservoir Co.

CURRENT OWNER (IF DIFFERENT) _____

TODAY'S DATE: July 26, 2016

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

1. ☒ **Name and Address**

Although not an error, the C/O individual should be: C/O Jerry R Rigby Sec as reflected in the records of IDWR.

2. ☒ **Source**

Source condition should be corrected to state:

The accumulation of storage water under this right is limited to those times water is available for diversion from the point of diversion on Johnson Creek.

3. ☒ **Quantity**

An existing combined annual diversion volume condition should be revised to read: Right Nos. 21-110, 21-111, 21-112, 21-2154 and 21-12946 are limited to a total combined annual diversion volume of 79,350 AF.

The following combined annual diversion volume condition should be added to the partial decrees: The rights listed below are limited to a total combined annual diversion volume of 90,000 AF. Combined Right Nos.: 21-110, 21-111, 21-112, 21-2154, 21-2161, 21-12946 and 21-13193.

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: _____

8. ☐ **Period of Year**

Should be: _____

9. ☒ **Place of Use**

Combined use condition should be corrected to include right 21-13193:

The rights listed below are limited to the irrigation of a combined total of 41,098 acres in a single irrigation season. Combined Right Nos.: 21-110, 21-111, 21-112, 21-2154, 21-2161, 21-12946, 21-12897, 21-12908, 21-12910, 21-12912, 21-12921, 21-12922, 21-12928, 21-12934, 21-12961, 21-12962, 21-12909, 21-12923, 21-12924, 21-13193, 22-428, 22-13342, 22-13343, 22-13344, 22-13347, 22-13349.

10. ☐ **Other Provisions**

Should be: _____

Additional explanation or supporting documentation of the error:

Water rights 21-111 and 21-112, claimed by North Fork Reservoir Co., are for storing water in Henry's Lake and ultimately using the stored water for irrigation. The partial decrees of the rights, originally issued in 2011, were amended in 2013. The Name and Address element of the partial decrees currently identify Ray W. Rigby Sec as the "in care of" individual for the reservoir co. Although not an error, the element should be updated to identify Jerry R Rigby as the "in care of" individual noted in the partial decrees per IDWR records.

IDWR also discovered the Source condition addressing the redirection of storage water could be interpreted in a manner which would impose an unintended limit to the rights. IDWR has modified the condition for clarity and to better describe when the rights are actually diverted.

IDWR is requesting revision to the listing of water rights in the existing Quantity condition which notes a total combined annual diversion volume of 79,350 AF. The revision will provide clarity to the list of combined water rights. In addition, IDWR's review of other North Fork Reservoir Co. rights led to the discovery that rights 21-110, 21-111, 21-112, 21-2154, 21-2161, 21-12946 and late claim 21-13193 all contribute to the total combined annual diversion volume of 90,000 AF for Henry's Lake. Rights 21-2154, 21-2161 and 21-12946 were reported in 2015 in an Amended Director's Report with a Quantity element condition noting the relationship between all these rights. IDWR is seeking to correct the Quantity element of rights 21-110, 21-111 and 21-112 with the addition of that Quantity condition clarifying the relationship between the rights in these partial decrees as well.

Finally, North Fork late claim 21-13193 should be added to the Place of Use condition listing the water rights limited to the irrigation of a combined total of 41,098 acres. The late claim had not been reported at the time rights 21-111 and 21-112 were decreed in 2013. IDWR believes addition of the late claim to the condition adds clarity to the partial decrees and will be consistent with the partial decrees of the other North Fork Reservoir Co. rights involving Henry's Lake if corrections to the partial decree of North Fork right 21-110 (also being filed at this time) is granted.

For more information about the errors 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: IDWR, 322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Proposed corrections to the partial decrees of the water rights are attached.

07/12/2016

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

RIGHT NUMBER: 21-111

NAME AND ADDRESS: NORTH FORK RESERVOIR CO
C/O RAY W JERRY R RIGBY SEC
PO BOX 250
REXBURG ID 83440

SOURCE: JOHNSON CREEK TRIBUTARY: HENRYS LAKE
Point of injection into and point of rediversion from Henrys Lake.

The ~~accumulation rediversion~~ of storage water under this right from Henrys Lake is limited to those times water is available for diversion under this right from the point of diversion on Johnson Creek.

QUANTITY: 2.000 CFS
320.00 AFY

Total reservoir capacity is 90,000 acre feet when filled to elevation 6476.9 and measured at the upstream face of the dam.

Right Nos. 21-110 and 21-111 are limited to a total combined annual diversion volume of 320 AF.

~~The rights listed below are limited to a total combined annual diversion volume of 79,350 af. Combined Right Nos.: 21-110, 21-111, 21-112, 21-2154, and 21-12946.~~

Right Nos. 21-110, 21-111, 21-112, 21-2154 and 21-12946 are limited to a total combined annual diversion volume of 79,350 AF.

The rights listed below are limited to a total combined annual diversion volume of 90,000 AF. Combined Right Nos.: 21-110, 21-111, 21-112, 21-2154, 21-2161, 21-12946 and 21-13193.

PRIORITY DATE: 06/01/1897

POINT OF DIVERSION: T15N R43E S6 NWNW Lot 2 Injection Within FREMONT County
T15N R43E S6 NWNW Lot 2 Within FREMONT County
T15N R43E S26 SWNW Lot 6 Rediversion Within FREMONT County

PURPOSE AND PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION STORAGE	01/01 12/31	320.00 AFY
IRRIGATION FROM STORAGE	04/01 10/31	320.00 AFY
DIVERSION TO STORAGE	05/01 10/31	2.000 CFS

PLACE OF USE:

41098 ACRES TOTAL

Place of use for irrigation from storage is within the area served by North Fork Reservoir Company which includes Egin Bench Canals Inc., Salem Union Canal Co., and Consolidated Farmers Canal Co., located within Madison and Fremont Counties, Idaho.

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.

Place of use for storage is Henrys Lake, provided, however, that water under this right may be temporarily held in the unoccupied space of any of the reservoirs upstream of Milner Dam, located at T10S, R21E, Sections 28 and 29, when determined by the Water District 01 Watermaster as supervised by the Director of the Department of Water Resources, the Water District 01 advisory committee, and the United States Bureau of Reclamation that such temporary storage will maximize the storage of water upstream of Milner Dam.

The rights listed below are limited to the irrigation of a combined total of 41,098 acres in a single irrigation season. Combined Right Nos.: 21-110, 21-111, 21-112, 21-2154, 21-2161, 21-12946, 21-12897, 21-12908, 21-12910, 21-12912, 21-12921, 21-12922, 21-12928, 21-12934, 21-12961, 21-12962, 21-12909, 21-12923, 21-12924, 21-13193, 22-428, 22-13342, 22-13343, 22-13344, 22-13347, 22-13349.

Right Nos. 21-110 and 21-111 are limited to the irrigation of a combined total of 160 acres 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 - Decreed

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

Point of redirection is Henrys Lake Dam.

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.

07/12/2016

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

RIGHT NUMBER: 21-112

NAME AND ADDRESS: NORTH FORK RESERVOIR CO
C/O RAY-W JERRY R RIGBY SEC
PO BOX 250
REXBURG ID 83440

SOURCE: JOHNSON CREEK TRIBUTARY: HENRYS LAKE
Point of injection into and point of rediversion from Henrys Lake.

The ~~accumulation rediversion~~ of storage water under this right from Henrys Lake is limited to those times water is available for diversion under ~~this right~~ from the point of diversion on Johnson Creek.

QUANTITY: 1.000 CFS
303.00 AFY

Total reservoir capacity is 90,000 acre feet when filled to elevation 6476.9 and measured at the upstream face of the dam.

~~The rights listed below are limited to a total combined annual diversion volume of 79,350 af. Combined Right Nos.: 21-110, 21-111, 21-112, 21-2154, and 21-12946.~~

Right Nos. 21-110, 21-111, 21-112, 21-2154 and 21-12946 are limited to a total combined annual diversion volume of 79,350 AF.

The rights listed below are limited to a total combined annual diversion volume of 90,000 AF. Combined Right Nos.: 21-110, 21-111, 21-112, 21-2154, 21-2161, 21-12946 and 21-13193.

PRIORITY DATE: 06/01/1900

POINT OF DIVERSION: T15N R43E S6 NWNW Lot 2 Injection Within FREMONT County
T15N R43E S6 NWNW Lot 2 Within FREMONT County
T15N R43E S26 SWNW Lot 6 Rediversion Within FREMONT County

PURPOSE AND PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DIVERSION TO STORAGE	05/01 10/31	1.000 CFS
IRRIGATION STORAGE	01/01 12/31	303.00 AFY
IRRIGATION FROM STORAGE	04/01 10/31	303.00 AFY

PLACE OF USE:

41098 ACRES TOTAL

Place of use for storage is Henrys Lake, provided, however, that water under this right may be temporarily held in the unoccupied space of any of the reservoirs upstream of Milner Dam, located at T10S, R21E, Sections 28 and 29, when determined by the Water District 01 Watermaster as supervised by the Director of the Department of Water Resources, the Water District 01 advisory committee, and the United States Bureau of Reclamation that such temporary storage will maximize the storage of water upstream of Milner Dam.

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.

Place of use for irrigation from storage is within the area served by North Fork Reservoir Company which includes Egin Bench Canals Inc., Salem Union Canal Co., and Consolidated Farmers Canal Co., located within Madison and Fremont Counties, Idaho.

The rights listed below are limited to the irrigation of a combined total of 41,098 acres in a single irrigation season. Combined Right Nos.: 21-110, 21-111, 21-112, 21-2154, 21-2161, 21-12946, 21-12897, 21-12908, 21-12910, 21-12912, 21-12921, 21-12922, 21-12928, 21-12934, 21-12961, 21-12962, 21-12909, 21-12923, 21-12924, 21-13193, 22-428, 22-13342, 22-13343, 22-13344, 22-13347, 22-13349.

This right is limited to the irrigation of 151.36 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 - Decreed

Point of redirection is Henrys Lake Dam.

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

CERTIFICATE OF SERVICE

I certify that on July 26, 2016, 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
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
State of Idaho
P.O. Box 83720
Boise, ID 83720-0010

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

3. Copy to the Owner:

Jerry R Rigby
25 N 2ND E
P.O. Box 250
Rexburg, ID 83440-0250

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

4. Courtesy copies to:

Sarah Klahn
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511 16th Street, Ste. 500
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☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

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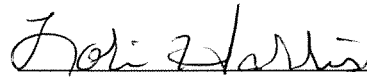
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W. Kent Fletcher
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Robert L. Harris
Holden, Kidwell, Hahn & Crapo, PLLC
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Signature of person or attorney mailing the form