

APR 29 2019

DEPARTMENT OF
WATER RESOURCES

REQUEST FOR CORRECTION OF ERROR

THE IDAHO DEPARTMENT OF WATER RESOURCES (IDWR) HAS IDENTIFIED ERRORS IN THE SRBA PARTIAL DECREE OF THE WATER RIGHT 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 OWNERS OF THE WATER RIGHT OF THE ERRORS IN QUESTION.

WATER RIGHT NOS.: 86-7345

NAMES OF OWNERS LISTED ON THE PARTIAL DECREES:

Idaho Water Resource Board

CURRENT OWNER (IF DIFFERENT):

TODAY'S DATE: April 26, 2019

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:**

The following condition should be added to the partial decree:

The reach of this minimum stream flow begins at the confluence with the Potlatch River in Lot 13, (NW $\frac{1}{4}$ SW $\frac{1}{4}$), Section 7, T36N, R3W, B.M. and extends downstream approximately 13 miles to the beginning of backwater from the reservoir behind Lower Granite Dam in Lots 1 and 6 (SW $\frac{1}{4}$ NE $\frac{1}{4}$), Section 32, T36N, R5W, B.M.

The following condition should be removed from the partial decree:

The reach of this minimum stream flow begins at the confluence of the South Fork Clearwater and the Middle Fork Clearwater River in Lot 7 (SW $\frac{1}{4}$ NE $\frac{1}{4}$), Section 5, T32N, R4E, B.M. and extends downstream approximately 34 miles to the confluence with North Fork Clearwater River in Lot 8 (SE $\frac{1}{4}$ SE $\frac{1}{4}$), Section 33, T37N, R1E, B.M.

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: _____

10. ☐ **Other Provisions:**

Should be: _____

Additional explanation or supporting documentation of the error:

As a result of issuance of license 86-7345 on January 5, 2009, IDWR submitted an Amended Director's Report for 86-7345 which reflected the elements of the license. However, the subsequent Amended Partial Decree for 86-7345 mistakenly replaced the existing point of diversion condition with the point of diversion condition for Amended Partial Decree 85-7583, which was issued on the same day.

Additionally, the at-issue condition on the partial decree for 86-7345 is facially inconsistent with the legal descriptions in the Point of Diversion element.

IDWR seeks to correct this error by removing the point of diversion condition that was mistakenly copied from Amended Partial Decree 85-7583 and replacing it with the point of diversion condition listed on license 86-7345.

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

CONTACT PERSON: Craig L. Saxton

TELEPHONE NUMBER: 208-287-4916

E-MAIL ADDRESS: craig.saxton@idwr.idaho.gov

MAILING ADDRESS: IDWR, P.O. 83720, Boise, ID 83720-0098

Proposed corrections to the partial decree of water right are attached.

CERTIFICATE OF SERVICE

I certify that on APRIL 26, 2019, 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
P.O. Box 83720
Boise, ID 83720-0010

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

State of Idaho
Idaho Water Resource Board
322 E Front St
PO Box 83720
Boise ID 83720-0098

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

Scooley-Denny
Signature of person or attorney mailing the form

07/08/2016

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

RIGHT NUMBER: 86-7345

NAME AND ADDRESS: STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098

SOURCE: CLEARWATER RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 5,910.000 CFS

PRIORITY DATE: 07/30/1992

Use of water under this right shall recognize and allow the continued beneficial diversion of water under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file or issued by the director under the provisions of Chapter 2, Title 42, Idaho Code, with a priority of water right date earlier than the date of priority of this right.

POINT OF
DIVERSION:

T36N R03W S7 NWSW Lot 13 Begin of Stream Flow Within NEZ PERCE County
T36N R05W S32 SWNE Lot 1 End of Stream Flow Within NEZ PERCE County
T36N R05W S32 SWNE Lot 6 End of Stream Flow Within NEZ PERCE County

~~The reach of this minimum stream flow begins at the confluence of the South Fork Clearwater and the Middle Fork Clearwater River in Lot 7 (SW1/4NE1/4), Section 5, T32N, R4E, B.M. and extends downstream approximately 34 miles to the confluence with North Fork Clearwater River in Lot 8 (SE1/4SE1/4), Section 33, T37N, R1E, B.M.~~

The reach of this minimum stream flow begins at the confluence with the Potlatch River in Lot 13, (NW1/4SW1/4), Section 7, T36N, R3W, B.M. and extends downstream approximately 13 miles to the beginning of backwater from the reservoir behind Lower Granite Dam in Lots 1 and 6 (SW1/4NE1/4), Section 32, T36N, R5W, B.M.

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
MINIMUM STREAM FLOW	11/01 7/31	5,910.000 CFS
	8/01 10/31	4,498.000 CFS

Use of water under this right shall be non-consumptive.

PLACE OF USE:

The place of use is within the stream reach between the beginning instream point and the ending instream point described for the points of diversion for this right.

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

The approved minimum stream flow shall be subordinate to future domestic, stockwater, municipal, commercial, and industrial development from the Clearwater River and its tributaries, including ground water, for use within the Clearwater River Basin where the domestic and stockwater uses are within the limitations of Section 42-111, Idaho Code.

The Idaho Water Resource Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to this water right. The petition must set forth any significant change in circumstances and evidence of the public interest supporting the proposed amendment. The Director will notify

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RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

the general public and specific persons or notify interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the water right should be amended in the public interest. The burden of proof at the hearing shall be upon the person or parties seeking the amendment to establish that the amendment of this water right would be in 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

The purpose of this minimum stream flow is for the protection of fish and wildlife habitat, aquatic life, and recreational uses.

Approval of this minimum stream flow shall not prevent approval of applications for consumptive uses from ground water if the wells are located and constructed to prevent an immediate impact on the river, as determined by the Director.

Upon further finding and order of the director that gaging stations are required to maintain the approved minimum flows under this right, such measuring devices shall be permanently installed and maintained as specified by the director.