

MEMO

TO: Water Rights 35-2078, 35-2104B, 35-2726 and 35-12344

FROM: James Cefalo JRC

DATE: April 3, 2018

RE: Updating Records to Match Decrees

During a meeting with Carl Phillips, the owner of water rights 35-2078, 35-2104B, 35-2726 and 35-12344, I discovered that the Department's water right records did not match the partial decrees for those water rights. The SRBA partial decrees were issued on February 15, 2002 and described a combined place of use of 316 acres. The Department's water right records described a combined place of use of 298 acres.

On May 13, 1996, the Department approved Transfer 4413, which created a 298-acre combined place of use for water rights 35-2078, 35-2104B, 35-2726 and 35-12344. Claims for all four water rights were pending before the SRBA Court at that time. The SRBA Court should have been notified of the transfer approval and the claims amended to reflect the 298-acre combined place of use. It is not clear whether the SRBA Court was notified of the transfer approval or if the claims were amended to reflect the transfer approval.

The Director's Report for water rights 35-2078, 35-2104B, 35-2726 and 35-12344 all described a 316-acre combined place of use. Partial decrees were issued consistent with the Director's Reports. Even though the places of use are inconsistent with Transfer 4413, the Department will recognize the water right elements listed in the partial decrees. I updated the Department's water right database to match the partial decrees.

It should be noted that water rights 35-2078, 35-2104B and 35-2726 include individual rate and acre limits based on previous licenses. The individual rate and acre limits listed on the partial decrees for those rights are consistent with the original licenses. Water right 35-12344 is an enlargement right intended to cover irrigated acres added after the license was issued for water right 35-2726. Instead of an enlargement of 73 acres (based on a combined place of use of 298 acres), the partial decree for water right 35-12344 describes an enlargement of 91 acres (based on a combined place of use of 316 acres). Therefore, updating the Department's records to match the partial decrees ultimately results in changing an enlargement right from 73 acres to 91 acres.

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 35-12344

2002 FEB 15 AM 9:13

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

NAME AND ADDRESS: CARL L PHILLIPS
NOLA RAE PHILLIPS
2884 W 1400 S
ABERDEEN, ID 83210

SOURCE: GROUNDWATER

QUANTITY: 1.46 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 4.50 CFS AND TO A TOTAL
COMBINED ANNUAL DIVERSION VOLUME OF 1264 AF. COMBINED RIGHT
NOS.: 35-02104B, 35-02726, AND 35-02078.

PRIORITY DATE: 05/01/1971

THIS WATER RIGHT IS SUBORDINATE TO ALL WATER RIGHTS WITH A
PRIORITY DATE EARLIER THAN APRIL 12, 1994, THAT ARE NOT DECREED
AS ENLARGEMENTS PURSUANT TO SECTION 42-1426, IDAHO CODE. AS
BETWEEN WATER RIGHTS DECREED AS ENLARGEMENTS PURSUANT TO SECTION
42-1426, IDAHO CODE, THE EARLIER PRIORITY RIGHT IS THE SUPERIOR
RIGHT.

POINT OF DIVERSION: T05S R31E S07 S18 SWSSE SWNE Within Bingham County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	1.46 CFS

PLACE OF USE:	Irrigation	Within Bingham County
	T05S R31E S07	NESE 40.0 NWSE 40.0
		SWSE 39.0 SESE 39.0
	S18	NENE 39.0 NWNE 39.0
		SWNE 40.0 SENE 40.0
	316.0 Acres Total	

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 316 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 35-02104B, 35-02078, AND
35-02726.

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

THIS RIGHT IS BASED UPON AN ENLARGEMENT OF RIGHT NOS. 35-02078,
35-02104B, 35-02726 PURSUANT TO SECTION 42-1426, IDAHO CODE.

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. I.C. SECTION 42-1412(6).

Other Provisions Necessary for Definition / Administration of this Water Right:

THIS RIGHT IS BASED UPON AN ENLARGEMENT OF RIGHT NOS.35-02078,
35-02104B, 35-02726 PURSUANT TO SECTION 42-1426, IDAHO CODE.

Explanatory Material: Basis of Claim - Beneficial Use

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF
DIVERSION DESCRIBED ABOVE: 35-02078, 35-02726, AND 35-02104B.
THIS RIGHT IS FOR AN ENLARGEMENT OF 91 ACRES WITHIN THE
PLACE OF USE DESCRIBED FOR THIS RIGHT.

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IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

4/3/2018

Water Right 35-12344

Owner Type **Name and Address**
Current Owner NOLA RAE PHILLIPS
 CARL L PHILLIPS
 2884 W 1400 S
 ABERDEEN, ID 83210

Priority Date: 5/1/1971

Basis: Decreed

Status: Active

Source

GROUND WATER

Beneficial Use

IRRIGATION

From

04/01

To

10/31

Diversion Rate

1.460 CFS

Total Diversion

1.460 CFS

Source and Point(s) of Diversion

GROUND WATER

SWNENE

Sec. 18, Twp 05S, Rge 31E, BINGHAM County

GROUND WATER

SWSESE

Sec. 7, Twp 05S, Rge 31E, BINGHAM County

Place Of Use

IRRIGATION within BINGHAM County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S	31E	7													40.0	40.0	39.0	39.0	158.0
05S	31E	18	39.0	39.0	40.0	40.0													158.0

Right Acre Limit: 91.0

POU Total Acres: 316.0

Conditions of Approval:

1. K09 This right is for an enlargement of 91 acres within the place of use described for this right.
- .2. E61 The rights listed below are limited to a total combined diversion rate of 4.50 cfs and to a total combined annual diversion volume of 1264 AF. Combined Right Nos.: 35-2078, 35-2104B, 35-2726 and 35-12344.
3. E56 The rights listed below are limited to the irrigation of a combined total of 316 acres in a single irrigation season. Combined Right Nos.: 35-2078, 35-2104B, 35-2726 and 35-12344.
4. K02 This right is based upon an enlargement of Right Nos. 35-2078, 35-2104B and 35-2726 pursuant to Section 42-1426, Idaho Code.
5. C11 This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.
6. F06 The following rights are diverted through point(s) of diversion described above: 35-2078, 35-2104B, 35-2726 and 35-12344.
7. C18 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.