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NOV 30 2011

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Department of Water Resources  
Eastern Region

State of Idaho

Department of Water Resources

**APPLICATION FOR AMENDMENT**

(For Licensing Purposes)

**WATER RIGHT NO. 22-07609**

Receipt  
# E037159

**Date of Priority:** October 05, 1988

**Maximum Diversion Rate:**

2.00 CFS

**Maximum Diversion Volume:**

350.0 AF

Comes now THE BOYD CHARLES SMITH & JILL JOHNSON SMITH TRUST  
C/O HOLDEN KIDWELL HAHN & CRAPO  
PO BOX 50130

IDAHO FALLS ID 83405 and represents to the Director of the Idaho Department of Water Resources that he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 22-07609, and requests that the permit be changed as follows:

**Source:** GROUND WATER

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>RATE OF DIVERSION</u> | <u>ANNUAL VOLUME</u> |
|-----------------------|----------------------|--------------------------|----------------------|
| IRRIGATION            | 04/15 to 10/31       | 2.00 CFS                 | 350.0 AF             |

**LOCATION OF POINT(S) OF DIVERSION:**

GROUND WATER

NE1/4SE1/4SE1/4

Sec. 25, Twp 06N, Rge 45E, B.M.

TETON County

**PLACE OF USE:** IRRIGATION

| Twp | Rge | Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE   |      |      |      | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|------|------|------|------|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE   | NW   | SW   | SE   |        |
| 06N | 45E | 25  |    |    |    |    |    |    |    |    |    |    |    |    | 11.0 | 15.0 | 39.0 | 35.0 | 100.0  |

Total Acres: 100

State of Idaho  
Department of Water Resources  
**APPLICATION FOR AMENDMENT**

(For Licensing Purposes)

**WATER RIGHT NO. 22-07609**

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk. Signed this 30th day of November, 2011.

Robert L. Jannis, ATTORNEY FOR  
(Signature) THE SMITH  
TRUST

State of Idaho  
Department of Water Resources  
**APPLICATION FOR AMENDMENT**  
(For Licensing Purposes)  
**WATER RIGHT NO. 22-07609**

\*\*\*\*\*  
FOR DEPARTMENT USE ONLY

Preliminary check by \_\_\_\_\_ Fee = 100<sup>00</sup> Received by Se # E037159 Date 11/30/11

**ACTION OF THE DEPARTMENT OF WATER RESOURCES**

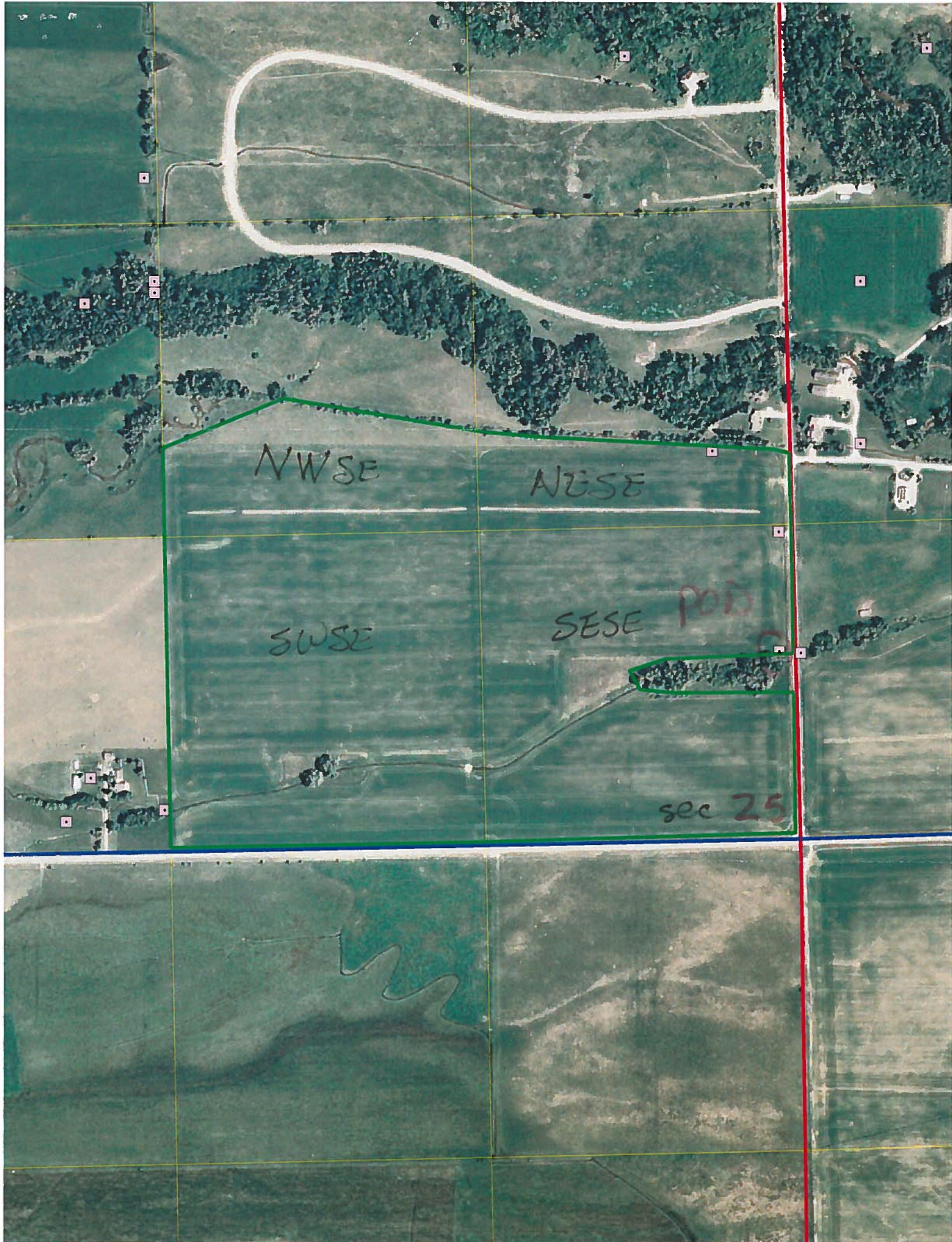
I, GARY SPACKMAN, of the Department of Water Resources hereby approve the  
above Application for Amendment for Permit No. 22-07609 with the following:

**CONDITIONS OF APPROVAL**

1. Rights 22-312, 22-487C, 22-13016, 22-42, 22-160, 22-545, 22-616, 22-13160, 22-13144, 22-13148, 22-130B, 22-481A, 22-482A, 22-483A, 22-2029D, 22-130D, 22-136C, 22-515B, 22-516B, and 22-517B, 22-7609 when combined shall not exceed a total diversion rate of 32.31 cfs and the irrigation of 1006.9 acres.
2. The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
3. The Director retains jurisdiction of the right to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.
4. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
5. The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.
6. If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.

Witness my hand this 19<sup>th</sup> day of December, 2011.

  
GARY SPACKMAN  
Interim Director





Holden Kidwell  
Hahn & Crapo P.L.L.C.  
L A W O F F I C E S

1000 Riverwalk Drive, Suite 200  
PO Box 50130  
Idaho Falls, Idaho 83405

Tel: (208) 523-0620  
Fax: (208) 523-9518  
www.holdenlegal.com

Email: [rharris@holdenlegal.com](mailto:rharris@holdenlegal.com)

November 30, 2011

RECEIVED

NOV 30 2011

Department of Water Resources  
Eastern Region

Idaho Department of Water Resources  
Attn: Sharla Cox  
900 North Skyline Drive, Suite A  
Idaho Falls, ID 83402-1718

**RE: Executed Application for Amendment for Licensing Purposes for Water Right No. 22-7609, in the Name of the Boyd Charles Smith and Jill Johnson Smith Trust.**

Dear Sharla:

Enclosed for processing is an *Application for Amendment for Licensing Purposes* for Water Right No. 22-7609. We received the enclosed letter from Dave Carlson on November 17<sup>th</sup>, and pursuant to its instructions, have executed the amendment document and included the \$100.00 filing fee. We appreciate your attention to this matter. If you have any questions or concerns, please let me know.

Best Regards,

Robert L. Harris  
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosure

G:\WPDATA\RLH\8527 Smith, Boyd\sharla cox ltr 2011.11.30.docx MB

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

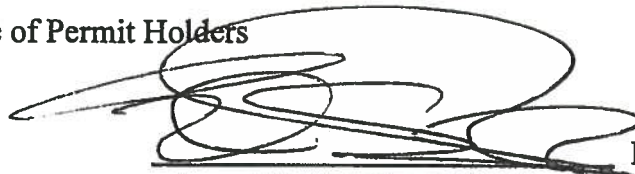
**ASSIGNMENT OF PERMIT  
To Change the Ownership of a Permit**

We, Edmund S. Twining, III, a married man dealing with his sole and separate property and Edmund S. Twining, III and Jane Forbes Clark, II, acting not individually but as Trustees of the Trust under the Will of Susan Clark Twining for Edmund S. Twining, III, also known as the Residuary Trust U/W of Susan C. Twining, hereby assign to Boyd Charles Smith and Jill Johnson Smith, or their successors, not individually but as Trustees of The Boyd Charles Smith and Jill Johnson Smith Trust created by that certain Trust Agreement dated December 13, 1990, of 3201 Ash Street, Palo Alto, California 94306-2240.

All our right, title, and interest in and to Permit No. 22-07609 to appropriate the public waters of the State of Idaho.

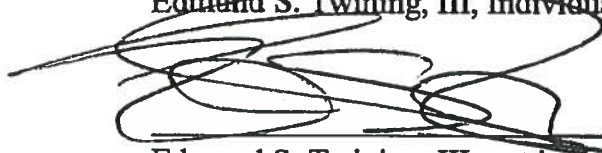
Made this 20<sup>th</sup> day of August, 1996.

Signature of Permit Holders



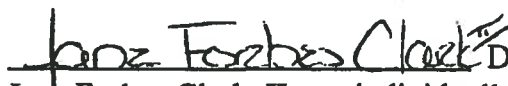
Date August 20, 1996

Edmund S. Twining, III, Individually



Date August 20, 1996

Edmund S. Twining, III, not individually  
but as Trustee of the Trust under the Will  
of Susan Clark Twining for Edmund S.  
Twining, III, also known as the Residuary  
Trust U/W of Susan C. Twining



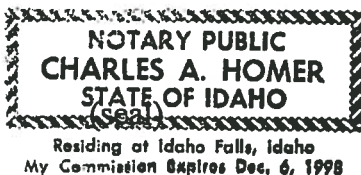
Date 8.22.96

Jane Forbes Clark, II, not individually  
but as Trustee of the Trust under the Will  
of Susan Clark Twining for Edmund S.  
Twining, III, also known as the Residuary  
Trust U/W of Susan C. Twining

STATE OF IDAHO           )  
                                          )ss.  
County of Bonneville )

On the 20<sup>th</sup> day of August, 1996, before me, the undersigned, a notary public in and for said State, personally appeared **Edmund S. Twining, III**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

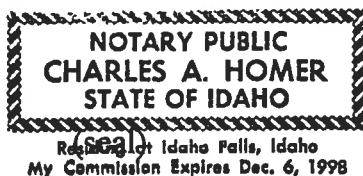


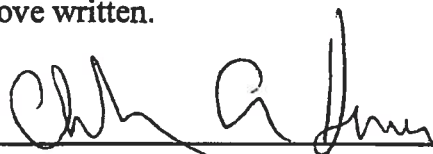
  
\_\_\_\_\_  
Notary Public for Idaho  
Residing at Idaho Falls, Idaho  
My Commission Expires: 12/6/98

STATE OF IDAHO           )  
                                          )ss.  
County of Bonneville )

On the 20<sup>th</sup> day of August, 1996, before me, the undersigned, a notary public in and for said State, personally appeared **Edmund S. Twining, III**, known or identified to me to be the person whose name is subscribed to the within instrument as Trustee of the Trust under the Will of Susan Clark Twining for Edmund S. Twining, III, also known as the Residuary Trust U/W of Susan C. Twining and acknowledged to me that he executed the same as such Trustee.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



  
\_\_\_\_\_  
Notary Public for Idaho  
Residing at Idaho Falls, Idaho  
My Commission Expires: 12/6/98

STATE OF New York )  
 )ss.  
County of Otsego )

On the 22<sup>nd</sup> day of August, 1996, before me, the undersigned, a notary public in and for said State, personally appeared **Jane Forbes Clark, II**, known or identified to me to be the person whose name is subscribed to the within instrument as Trustee of the Trust under the Will of Susan Clark Twining for Edmund S. Twining, III, also known as the Residuary Trust U/W of Susan C. Twining and acknowledged to me that she executed the same as such Trustee.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

MARY E. HIGGINS  
NOTARY PUBLIC, State of New York  
No. 4940233 Otsego County  
Commission Expires 10-11-96  
(seal)

Mary E. Higgins  
Notary Public for New York  
Residing at Milford, New York  
My Commission Expires: 10/11/96

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