

3/15/2011

TO: Christine Roberts/Tim Luke

FROM: Andrew Loyst, 3001 Alton Drive, St. Pete Beach, FL 33706

RE: Water Rights: #65-7210 and #65-7517

(2449 Maverick Road, Donnelly, ID, Lots 11 and 12)

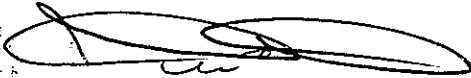
RECEIVED
MAR 21 2011
DEPARTMENT OF
WATER RESOURCES

Per the phone conversation and enclosed hearings and notes, please change water rights from previous owner to myself. WE have owned the property since August 2005, info enclosed.

Mailing address on file might be 855 West Ashbourne Drive, Eagle ID 83616, however we have moved in the last 6 months to the address above.

If anything else is needed please advise.

Thank you.



Andrew E. Loyst (727-827-2228 or aloyst@aol.com)

BACKGROUND

TIM LUKE

208-287-4800

3/14/11 // CBRL

aluyt@aol.com

January 14, 2011

Andrew E. Loyst
855 W. Ashbourne Dr.
Eagle, ID 83616

Re: Idaho Department of Water Resources

Dear Andy:

I am enclosing documents that I received in the mail from the Idaho Department of Water Resources. I called and spoke with Tim Luke regarding these documents and he informed me that there is really nothing for you to do it was just the way the state decided to inform you of a change in administration.

Mr. Luke told me that you needed to call or go on line and fill out an ownership change for both of the water rights for Lot 11 and 12. There is a \$25.00 fee for each right. The water right numbers are #65-7201 - Lot 12, and 65-7517 - Lot 11.

I think of the cabin often, but still cannot talk myself into coming over to that side of the mountain. I have friends that bought a condo in Donnelly and I have only visited them once because their living room window looks out on the mountain where you are. Sure hope that you folks are enjoying it and that it has brought you many hours of great memories.

Sincerely,



Sheila A. Whiting
2445 Center Avenue
Payette, ID 83661

208-749-3429



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

January 11, 2011

RE: Motion for Order of Interim Administration for Surface Water Rights in Basin 65

Dear Water Right Holder:

The enclosed documents relate to the State of Idaho's Motion for Order of Interim Administration, which seeks District Court authorization for administration of surface water rights in Basin 65, Payette River Basin.

The purpose for the request is to obtain authority for the administration and delivery of surface water rights in Basin 65, including existing Basin 65 surface water districts, in accordance with the more recent partial decrees issued by the Snake River Basin Adjudication District Court rather than the older or outdated historic records. One step in this process is the notification of potentially affected water right holders. Therefore, this mailing is being sent to all recorded Snake River Basin Adjudication surface water claimants or right holders (except those whose use is solely for de minimis domestic and/or stock water purposes) in Basin 65. Please note that some claimants or right holders receiving this notice may have rights that are not included within an existing surface water district.

Enclosed with this mailing are the following documents: (1) Order Setting Hearings on State of Idaho's Motion's for Interim Administration and Requests for Expedited Hearing; (2) Motion for Order of Interim Administration for Surface Water Rights in Basin 65; (3) Brief In Support of Motion for Order of Interim Administration; and (4) Affidavit of Tim Luke, Manager for the IDWR Water Distribution Section. Please note that the Snake River Basin Adjudication District Court has scheduled a hearing for this matter on Tuesday, February 15, 2011, at 2:00 p.m., at the Snake River Basin Adjudication Court, 253 3rd Avenue North, Twin Falls, Idaho.

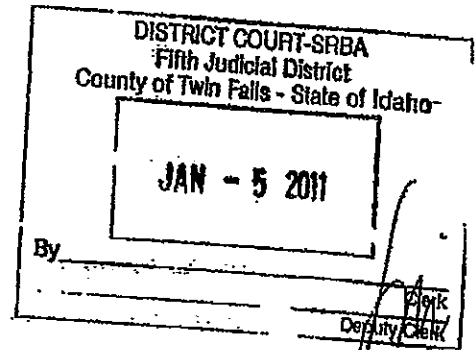
If you have any questions concerning this matter, please call IDWR at 208-287-4800.

Sincerely,

Gary Spackman
Interim Director

Enclosures

W.P. # 65-1201, 65-7517-11
Tim Luke
(Sub Ownership Change)
12/17
25.00 fee per right



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

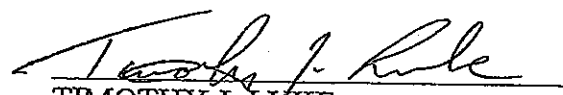
) Subcases: 00-92021-63 & 00-92021-65

)
)
) ORDER SETTING HEARING ON
) STATE OF IDAHO'S MOTIONS FOR
) INTERIM ADMINISTRATION AND
) REQUESTS FOR EXPEDITED
) HEARING
)
)

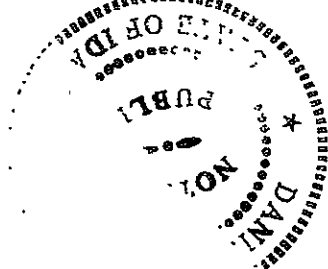
On January 4, 2011, the State of Idaho filed *Motions for Order of Interim Administration of Surface Water Rights*, pursuant to I.C. § 42-1417, seeking administration of surface water rights located in all or portions of Administrative Basins 63 and 65, in accordance with the *Partial Decrees* that have been issued by this Court in the Snake River Basin Adjudication. A *Request for Expedited Hearing*, pursuant to AOI 6f(2), for each basin was also included with the *Motions*.

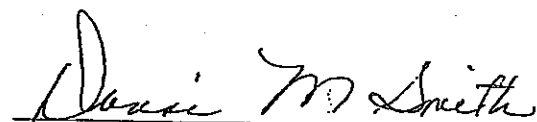
Because of the unusually large number of parties requiring service of these *Motions*, and in an effort accomplish service in a single-round by including a copy of this *Order* with the service of the *Motions*, the State of Idaho filed these *Motions* with the Court prior to serving copies on other parties. This practice is customarily used in the SRBA with respect to *Motions for Interim Administration*. The Court, in exercising its discretion, finds this to be a reasonable manner of proceeding provided compliance with the service requirements set forth below. I.R.C.P. 5(d)(1).

8. There are currently five active water districts administering surface water rights in Basin 65. Water District No. 65 includes all of the Payette River and tributaries, excluding Water District No. 65-A, Squaw Creek and tributaries, Water District No. 65-B, Porter Creek and tributaries, Water District No. 65-D, Boulder Creek and tributaries, and Water District No. 65-K, Lake Fork Creek and tributaries. Most of the water use and watermaster regulation activity in Water District No. 65 is limited to the Payette River between Banks and the Snake River.
9. Current administration of surface water rights in Basin 65 water districts is based on decreed or other administrative water rights as recorded with IDWR prior to the issuance of partial decrees in Basin 65 by the Snake River Basin Adjudication (SRBA) District Court. Many of these historic water right records do not accurately reflect current water uses provided in partial decrees issued by the SRBA Court. Proper administration of surface water rights in Basin 65 water districts is dependent upon use of the most updated water right records as reflected by the partial decrees issued by the SRBA Court or as recommended by the Director of IDWR to the SRBA Court.
- FURTHER YOUR AFFLIANT SAYETH NAUGHT.


TIMOTHY J. LUKE

SUBSCRIBED AND SWORN to before me this 4th day of January, 2011.





Notary Public for Idaho

Residing at: Boise, Idaho

My commission expires: Dec 12, 2012

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
P.O. Box 44449
Boise, Idaho 83711-4449
Telephone: (208) 334-2400
Facsimile: (208) 334-2690
Email: clive.strong@ag.idaho.gov
ISB No. 2207

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)
)
)
)
)
)

Subcase No. 00-92021-65

**AFFIDAVIT OF TIMOTHY J. LUKE
IN SUPPORT OF MOTION FOR ORDER
OF INTERIM ADMINISTRATION**

STATE OF IDAHO)
) ss.
County of Ada)

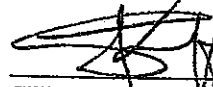
Timothy J. Luke, being first duly sworn upon oath deposes and states as follows:

1. My name is Timothy J. Luke. I am the Section Manager for the Water Distribution Section for the Idaho Department of Water Resources (IDWR). My work address is Idaho Department of Water Resources, 322 East Front Street, Boise, Idaho 83720-0098. I reside in Boise, Idaho.
2. My education background includes a Bachelor of Arts degree in Geography from West Virginia University in 1982 and a Master of Science degree in Geography and Natural Resource Management from the University of Idaho in 1992. My education/training since college has included, but is not limited to, participation in seminars and courses

RESPECTFULLY SUBMITTED this 4th day of January 2011.

LAWRENCE G. WASDEN
ATTORNEY GENERAL

CLIVE J. STRONG
DEPUTY ATTORNEY GENERAL
STATE OF IDAHO



SHASTA KILMINSTER-HADLEY
Deputy Attorney General
Natural Resources Division

decrees. Administration based upon the partial decrees is necessary to protect senior water rights because to fully and adequately deliver water rights, the Director needs to administer water rights based upon the most updated records, which are the partial decrees issued by this Court pursuant to chapter 14 of title 42, Idaho Code. As the Court's adjudication of the water rights in Basin 65 is nearly complete, it is an appropriate time to have IDWR begin administering water rights per the partial decrees.

II. THE DIRECTOR'S REPORTS AND PARTIAL DECREES PROVIDE AN ADEQUATE LIST OF WATER RIGHTS FOR PURPOSES OF INTERIM ADMINISTRATION.

Chapter 6 recognizes that distribution of water requires an accurate listing of water rights. Idaho Code § 42-604, providing for the creation of water districts, applies only to "streams or water supplies" whose priorities of appropriation have been adjudicated by courts having jurisdiction thereof. The Idaho Supreme Court has recognized the importance of an accurate list containing the description of the water rights to be administered. In *Nettleton v. Higginson*, 98 Idaho 87, 558 P.2d 1048 (1977), the Idaho Supreme Court stated: "Only by having a specific list reciting the names of water users, with their dates of priority, amounts, and points of diversion can a system be administered." *Id.* at 91, 558 P.2d at 1052, quoting *DeRousse v. Higginson*, 95 Idaho 173, 505 P.2d 321 (1973).

Before the court can issue the order of interim administration, it must find that the individual partial decrees are an adequate listing of the owners of and the elements of the water rights for the purposes of interim administration of a water source. Idaho Code § 42-1417 contemplates that the partial decrees provide an adequate listing of water rights for purposes of interim administration because these rights have not only been investigated by state officials, but have also withstood the scrutiny of court review. Thus, the partial decrees constitute an adequate

LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

SHASTA KILMINSTER-HADLEY, ISB #7889
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P.O. Box 44449
Boise, Idaho 83711-4449
Telephone: (208) 334-2400
Facsimile: (208) 334-2690

~~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	)	Subcase No. 00-92021-65
	)	
	)	BRIEF IN SUPPORT OF MOTION FOR
	)	ORDER OF INTERIM ADMINISTRATION
Case No. 39576	)	FOR SURFACE WATER RIGHTS IN BASIN 65
	)	
	)	
	)	

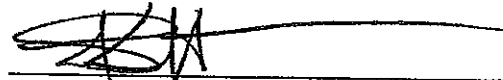
The State of Idaho submits this brief in support of its *Motion for Order of Interim Administration of Surface Water Rights in Basin 65*. Idaho Code § 42-1417 sets forth the provisions of law that authorize the District Court to enter an order of interim administration. This brief will demonstrate compliance with those requirements.

3. That Court grant such other and further relief that the Court deems just and proper.

DATED this 4th day of January 2011.

LAWRENCE G. WASDEN
ATTORNEY GENERAL

CLIVE J. STRONG
DEPUTY ATTORNEY GENERAL
STATE OF IDAHO



SHASTA KILMINSTER-HADLEY
Deputy Attorney General
Natural Resources Division

LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG
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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	)	Subcase No. 00-92021-65
	)	
	)	
	)	MOTION FOR ORDER OF
Case No. 39576	)	INTERIM ADMINISTRATION OF SURFACE
	)	WATER RIGHTS IN BASIN 65
	)	
	)	
	)	

The State of Idaho moves this Court for an order of interim administration of surface water rights in the Snake River Basin Adjudication ("SRBA") for Administrative Basin 65, pursuant to Idaho Code § 42-1417, in accordance with partial decrees issued by the SRBA District Court. The grounds for this motion are as follows:

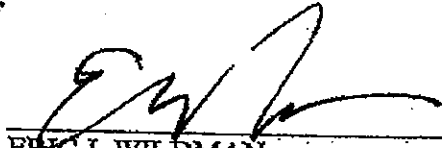
1. Idaho Code § 42-1417 provides that the district court may, by order, permit the distribution of water pursuant to chapter 6, title 42, Idaho Code, through water districts in accordance with the partial decrees for water rights acquired under state law or

time, as the State of Idaho's representation in responding at the hearing to any pre-filed objections will be deemed sufficient to represent the interests of other parties also supporting the State of Idaho's *Motions*. Following the hearing on the merits, if deemed necessary, the Court will determine whether to allow any post-hearing or responses by participating parties.

5) Subcase number designation for *Motions*: For purposes of identifying documents in the above-captioned matter, documents shall be filed/lodged under the subcase number designations of 00-92021-63 and 00-92021-65 respectively.

DATED:

January 5, 2011.


ERIC J. WILDMAN

Presiding Judge

Snake River Basin Adjudication