

08/29/2011

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

RIGHT NUMBER: 63-33143

NAME AND ADDRESS: ELLEN B BATT
1621 IDAHO
CALDWELL ID 83605

ELLEN G BATT
1621 IDAHO
CALDWELL ID 83605

NORMAN A BATT
1621 IDAHO
CALDWELL ID 83605

FREDERICK C BATT
1621 IDAHO
CALDWELL ID 83605

SOURCE: GROUND WATER

TRIBUTARY:

The water diverted under this right is injected into the Golden Gate Canal in exchange for Wilder Irrigation District water by diverting an equal amount of Wilder Irrigation District water for irrigation of the place of use described on this right.

QUANTITY: 0.650 CFS
335.70 AFY

Right Nos. 63-4428 and 63-33143 are limited to a total combined diversion rate of 1.50 cfs.

Right Nos. 63-4428, 63-33143, 63-33475, and 63-33476 are limited to a total combined diversion rate of 4.16 cfs.

This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.

PRIORITY DATE: 04/22/1979

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:

T04N R05W S23 NWNW Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.650 CFS 335.70 AFY

PLACE OF USE: IRRIGATION in CANYON County

T04N R04W S29	SWSE	1.60	T04N R04W S32	NWNE	39.00
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T04N R04W S32	SWNE	34.00
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74.6 ACRES TOTAL

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

Right Nos. 63-4428, 63-33143, 63-33475, and 63-33476 are limited to the irrigation of a combined total of 213.5 acres in a single irrigation season.

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

This right is based upon an enlargement of Right No. 63-4428 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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

This right is for an enlargement of 74.6 acres.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-33143 V2

WATER RIGHT NUMBER: 63-33143 V2

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ELLEN B BATT 1621 IDAHO CALDWELL, ID 83605 (208) 453-8588
Current Owner	ELLEN G BATT 1621 IDAHO CALDWELL, ID 83605 (208) 453-8588
Current Owner	NORMAN A BATT 1621 IDAHO CALDWELL, ID 83605 (208)453-8588
Attorney	JOHN HAMMOND JR 101 S CAPITOL BLVD BOISE, ID 83701 (208)331-1000
Current Owner	FREDERICK C BATT 1621 IDAHO CALDWELL, ID 83605 (208)453-8588

Priority Date: 04/22/1979

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01	to 11/15	0.650 CFS	335.70 AF
	<u>Total Diversion:</u>		0.650 CFS	335.70 AF

Location of Point(s) of Diversion

GROUND WATER	NW1/4NW1/4	Sec. 23, Twp 04N, Rge 05W, B.M.
CANYON County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE	NW	SW	SE	Totals
04N	04W	29	NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE	1.6
04N	04W	32	39.0	34.0			73.0

Total Acres: 74.6

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-33143 V2

Conditions of Approval:

1. E55 Right Nos. 63-4428, 63-33143, 63-33475, and 63-33476 are limited to the irrigation of a combined total of 213.5 acres in a single irrigation season.
2. K09 This right is for an enlargement of 74.6 acres.
3. K02 This right is based upon an enlargement of Right No. 63-4428 pursuant to Section 42-1426, Idaho Code.
4. 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.
5. 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.
6. E51 Right Nos. 63-4428 and 63-33143 are limited to a total combined diversion rate of 1.50 cfs.
7. R65 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
8. The water diverted under this right is injected into the Golden Gate Canal in exchange for Wilder Irrigation District water by diverting an equal amount of Wilder Irrigation District water for irrigation of the place of use described on this right.
9. E51 Right Nos. 63-4428, 63-33143, 63-33475, and 63-33476 are limited to a total combined diversion rate of 4.16 cfs.

Remarks:Comments:

1. mvanbussum 6/10/2011 Version 2

Comment: After reporting of the initial recommendation, the claimants filed an objection and evidence of priority supporting this enlargement. Recommending a version 2 for settlement.

Dates and Other Information:

Decreed Date:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Defendant:
 Plaintiff:
 Civil Case Number:
 Judicial District:
 Notice of Error Flag:
 State or Federal:
 Owner Name Connector: OR
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Combined Use Limits:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-33143 V2

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Contacts	6/10/2011 11:31:42 AM	mvanbussum			Active
Priority Date	6/10/2011 11:32:12 AM	mvanbussum			Active
POD	6/10/2011 11:32:31 AM	mvanbussum			Active
Source	6/10/2011 11:37:14 AM	mvanbussum			Active
POU	6/10/2011 11:37:29 AM	mvanbussum			Active
Use	6/10/2011 11:45:24 AM	mvanbussum			Active
Season	6/10/2011 11:46:04 AM	mvanbussum			Active
Quantity	6/10/2011 12:04:22 PM	mvanbussum			Active
Summary			06/10/2011	mvanbussum	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
Contacts	6/10/2011 11:31:39 AM	mvanbussum	(No) 1. Do you want to schedule an appointment? Comment for 1: Desktop review.
General	6/10/2011 11:32:10 AM	mvanbussum	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (No) 8. Is the basis of claim a posted notice? (No) 9. Is the Priority Date of this water use after the date a permit is required for the source and the water use? (Yes) 12. Does the claim file contain sufficient evidence of Priority Date? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required? Description for Question 12/13 - Enlargement of 63-4428
POD	6/10/2011 11:32:29 AM	mvanbussum	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?
POU	6/10/2011 11:45:03 AM	mvanbussum	Updated PLS
POD	6/10/2011 11:36:47 AM	mvanbussum	Updated PLS

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-33143 V2

Source	6/10/2011 11:37:11 AM	mvanbussum	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim an Application or Permit? (No) 6. Is the basis of claim a Posted Notice? (No) 7. Is there evidence that there has been a change in the source? (Yes) 10. Does the file contain all the necessary information to verify the source? (No) 11. Is a Source remark and/or condition required?
POU	6/10/2011 11:37:26 AM	mvanbussum	(No) 1. Is the basis of this claim a Decree or License? (Yes) 2b. Is the POU required? (No) 3. Is the basis of claim a Application or Permit? (No) 7. Is there evidence that there has been a change in the POU? (Yes) 13. Does the file contain all the necessary information to verify the POU? (No) 14. Is a POU remark and/or condition required?
Quantity	6/10/2011 12:04:18 PM	mvanbussum	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is the basis of claim a posted notice? (No) 7. Is a flow measurement required? (Yes) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (Yes) 10. Is a irrigation a purpose of use? (No) 12. Is a Quantity remark or condition required? Description for Question 10 - 4.5 AF/ac/yr field headgate requirement times 74.6 acres equals 335.7 AFA.
POD	6/10/2011 11:36:35 AM	mvanbussum	Updated Shape
Use	6/10/2011 11:45:21 AM	mvanbussum	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Purpose of Use? (Yes) 11. Does the file contain all the necessary information to verify the Water Use? (No) 13. Is a Purpose of Use remark and/or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-33143 V2

Season	6/10/2011 11:46:01 AM	mvvanbussum	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administrativly determined? (Yes) 15. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?
POU	6/10/2011 11:44:43 AM	mvvanbussum	Updated Shape
Summary	6/10/2011 12:10:43 PM	mvvanbussum	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (Yes) 5. Does this right have any combined use limits with other rights? (No) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-33143 V1

WATER RIGHT NUMBER: 63-33143 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ELLEN B BATT 1621 IDAHO CALDWELL, ID 83605 (208) 453-8588
Current Owner	ELLEN G BATT 1621 IDAHO CALDWELL, ID 83605 (208) 453-8588
Current Owner	NORMAN A BATT 1621 IDAHO CALDWELL, ID 83605 (208)453-8588
Attorney	JOHN HAMMOND JR 101 S CAPITOL BLVD BOISE, ID 83701 (208)331-1000
Current Owner	FREDERICK C BATT 1621 IDAHO CALDWELL, ID 83605 (208)453-8588

Priority Date: 04/22/1979

Basis: Beneficial Use

Status: Closed

<u>Source</u>	<u>Tributary</u>
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GROUND WATER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	1.500 CFS	
	<u>Total Diversion:</u>	1.500 CFS	

Location of Point(s) of Diversion

GROUND WATER	NW1/4NW1/4	Sec. 23, Twp 04N, Rge 05W, B.M.
CANYON 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	
04N	04W	32		40.0	40.0														80.0

Total Acres: 80

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-33143 V1

Conditions of Approval:

1. P03 No beneficial use found.
2. P13 No beneficial use found: This is included for a claim based on beneficial use that is proposed to be disallowed because beneficial use of water was not confirmed by IDWRs field examination or by other evidence submitted by the claimant.

Remarks:Comments:

1. mvanbussum 5/10/2010 Review notes
Comment: Claimants applied for a transfer on 63-4428, which was denied. In the correspondence for that transfer, no mention was made of water being used on this property, but the transfer sought to move the POU to this property. It appears since the transfer was denied, the claimants are trying to prove an enlargement. This is a claim for enlargement of a statutory claim, which was not verified in the first place. Need evidence of priority and use of ground water on this property. Wrote a letter to the attorney on May 10, 2010, with a respond by date of June 14, 2010, to try to get it in the next Directors Report.
2. mvanbussum 5/10/2010 Disallow
Comment: I am anticipating the claimants will not be able to provide evidence of priority, so I am recommending this is as disallowed. If priority is submitted, I will delete this comment and write a new recommendation.
3. mvanbussum 5/10/2010 Copied from remarks
Comment: Remarks:
a) This claim is to an enlargement of Water Right No. 63-4428 pursuant to Section 42-1426 Idaho Code. No additional rate of diversion is claimed from that listed in Right No. 63-4428.
b) The water diverted under this right is injected into the Golden Gate Canal in exchange for Wilder Irrigation District Water by diverting an equal amount of Wilder Irrigation District water for irrigation of the place of use listed on this right.
c) The place of use listed on this right was purchased April 22, 1979 and the exchange provisions described above were extended to this parcel at that time. A copy of the deed is included as an attachment.
4. mvanbussum 5/10/2010 Copied from remarks
Comment: Other water rights used at the same place and for the same purpose: Wilder Irrigation District Entitlement

Dates and Other Information:

Decreed Date:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Defendant:
 Plaintiff:
 Civil Case Number:
 Judicial District:
 Notice of Error Flag:
 State or Federal:
 Owner Name Connector: OR
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Combined Use Limits:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-33143 V1

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Contacts	5/10/2010 12:50:57 PM	mvanbussum			Closed
Contacts	5/10/2010 12:54:40 PM	mvanbussum			Closed
Summary			05/10/2010	mvanbussum	Closed
Priority Date	5/10/2010 3:11:45 PM	mvanbussum			Closed

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
Contacts	5/10/2010 12:54:39 PM	mvanbussum	(No) 1. Do you want to schedule an appointment? Comment for 1: Desktop review.
Summary	5/10/2010 3:11:41 PM	mvanbussum	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (No) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (No) 4. Is any portion of the claim be recommended? (No) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?
General	5/10/2010 3:11:44 PM	mvanbussum	(No) 1. Should this water use have been included in a later court decree of the water rights from this source?
Contacts	5/10/2010 12:50:57 PM	mvanbussum	(No) 1. Do you want to schedule an appointment? Comment for 1: Desktop review.
POU	5/10/2010 1:07:03 PM	mvanbussum	Updated Shape

Water Supply Bank:



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 www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

Gary Spackman
Interim Director

June 15, 2011

IDAHO PRESS TRIBUNE
legals@idahopress.com
PO BOX 9399
NAMPA ID 83652

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper.

We request the publication dates be June 23, 2011 and June 30, 2011. If you cannot publish the notice on the proposed dates, please contact me immediately.

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill to me at Idaho Water Resources, PO Box 83720, Boise, ID 83720-0098.

Yours truly,

A handwritten signature in cursive script that reads "Danni M. Smith".

Danni M. Smith
SRBA Admin Asst I

Enclosure

NOTICE OF ENLARGEMENT OF WATER RIGHT

The following claims to water rights have been filed in the Snake River Basin Adjudication as enlargements to existing water rights under Idaho Code §42-1426. Note that the places of use in Canyon County are shown to the nearest section -- more specific locations are available upon request.

Water Right:	63-33143
NAME & ADDRESS:	ELLEN B BATT ELLEN G BATT NORMAN A BATT FREDERICK C BATT 1621 IDAHO CALDWELL ID 83605
SOURCE:	GROUNDWATER <i>Sub</i>
PRIORITY DATE:	04/22/1979
POINT OF DIVERSION:	T04N R05W S23 NWNW
PURPOSE OF USE:	IRRIGATION
PLACE OF USE:	T04N R04W S29 SWSE S32 NWNE SWNE

This right is for an enlargement of 74.6 acres

The water rights will be subject to all prior water rights. Those asserting injury from the enlargements may file petitions with the Director, Idaho Department of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705-5082 on or before August 1, 2011.
