

Shurte, Jan

From: Cooley-Denney, Suzy
Sent: Tuesday, April 17, 2012 9:38 AM
To: Courtney, Andrea; Shurte, Jan; Williams, Ray
Subject: 57-02251 (Low) - Follow up

Hearing vacated.



5702251xx00016[1
.tiff

IDWR Concurrence:

Vicky Music 9-21-10

Vicky L. Music Date
Senior Water Resource Agent

Nicholas B. Spencer 9-21-10

Nicholas B. Spencer Date
Deputy Attorney General
Attorney for IDWR

09/21/2010

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

RIGHT NUMBER: 63-5065

NAME AND ADDRESS: EDWARDS FAMILY LLC
4106 SAND CREEK
BOISE ID 83703

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.040 CFS

The quantity of water under this right for domestic use shall not exceed 13,000 gallons per day.

NBS

PRIORITY DATE: 10/01/1956

VHM

POINT OF
DIVERSION:

T04N R02E S29 SWNE Within ADA County

T04N R02E S29 SWNE Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	0.040 CFS

Domestic use is for 1 home and shop ~~used by Edwards Greenhouse~~ and up to one-half acre irrigation.

PLACE OF USE: DOMESTIC in ADA County

T04N R02E S29 SWNE

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

The quantity of water decreed for this water right for domestic use is not a determination of historical beneficial use.

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

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

Right no. 63-5067 is also diverted through point of diversions described above.

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho SEP 27 2010 By _____ Clerk
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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 Case No. 39576 	)))))))	Subcase No. 63-5067 STANDARD FORM 5 STIPULATED ELEMENTS OF A WATER RIGHT
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This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT/OBJECTOR/RESPONDENT: Edwards Family Trust, LLC	OBJECTOR: The Terteling Company, Inc.
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By: <u>Harnette K Edwards</u> Date: <u>9/27/10</u> Title: <u>owner Edwards Greenhouse</u>	By: <u>Charles L. Honsinger</u> Date: <u>9/27/10</u> Title: <u>Attorney for Objector</u>
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IDWR Concurrence:

Vicky L. Music 9-21-10
Vicky L. Music Date
Senior Water Resource Agent

Nicholas B. Spencer 9-21-10
Nicholas B. Spencer Date
Deputy Attorney General
Attorney for IDWR

09/21/2010

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

RIGHT NUMBER: 63-5067

NAME AND ADDRESS: EDWARDS FAMILY LLC
6106 SAND CREEK
BOISE ID 83703

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.130 CFS 0.27
32.35 AFY 77.5

Use of this right with Right No. 63-14 is limited to a total combined diversion rate of ~84 0.21 cfs for outside irrigation.

PRIORITY DATE: 10/01/1930

POINT OF
DIVERSION:

T04N R02E S29 SWNE Within ADA County
T04N R02E S29 SWNE Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
COMMERCIAL	01/01 12/31	0.130 CFS 0.27 32.35 AFY 77.5
IRRIGATION	01/01 12/31 03/01 11/15	0.170 CFS 37.35 AFY

~~Commercial use is for a greenhouse business and includes all associated uses including use for retail offices and shop, heating, and irrigation inside and outside of the greenhouses.~~

Commercial use is for all uses within the greenhouses, shop, and apartment including domestic, retail shops and watering of plants. Irrigation use is for areas outside the greenhouses.

PLACE OF USE: IRRIGATION in ADA County

T04N R02E S29 SWNE 8.30

COMMERCIAL in ADA County

T04N R02E S29 SWNE

8.3 ACRES TOTAL

Use of this right with Right No. 63-14 is limited to the outside irrigation of a combined total of 8.3 acres.

NBS
VLM
GKE
C2.7X

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

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

Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

Right no. 63-5065 is also diverted through point of diversions described above.

NBS
VLM
GKE
C.27X

CERTIFICATE OF MAILING

I certify that on Sept. 28, 2010, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid 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, IDAHO 83303-2707

Hand-delivered

2. Copies to:

THE TERTELING COMPANY, INC.

Represented by:

CHARLES L. HONSINGER
455 S. THIRD STREET
P.O. BOX 2773
BOISE, ID 83701-2773

// //

EDWARDS FAMILY, LLC

Represented by:

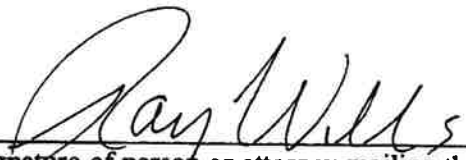
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702

// //

DIRECTOR OF IDWR

P.O. BOX 83720
BOISE, ID 83720-0098

// //



Signature of person or attorney mailing the form



TAMARACK ST

EDWARDS HOUSE AND SHOP

SWINE

63-5065 -- 1964 AERIAL PHOTO - HOUSE AND SHOP ON TAMARACK. CLAIMED 1 ACRE OF IRRIGATION BUT EVEN IF ALL OF ARE
AROUND HOUSE, INCLUDING WHERE CARS ARE PARKED, DRIVEWAY, ONLY 1/4 ACRE IS
IRRIGATED. AERIAL AND TAXLOTS DON'T MATCH BUT CAN SEE THAT IRRIGATION HAS LESSENERD - STILL NOT 1 ACRE IN
THIS PHOTO



63-5065 -- 2003 AERIAL PHOTO - HOUSE AND SHOP ON TAMARACK. CLAIMED 1 ACRE OF IRRIGATION BUT EVEN IF ALL OF AREA AROUND HOUSE, INCLUDING WHERE CARS ARE PARKED, DRIVEWAY, ONLY 1/4 ACRE IS IRRIGATED.



63-5065 -- 1995 AERIAL PHOTO - HOUSE AND SHOP ON TAMARACK. CLAIMED 1 ACRE OF IRRIGATION BUT EVEN IF ALL OF ARE
AROUND HOUSE, INCLUDING WHERE CARS ARE PARKED, DRIVEWAY, ONLY 1/4 ACRE IS
IRRIGATED.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

DEC 14 2007

DEPARTMENT OF WATER RESOURCES

Notice of Security Interest in a Water Right

And Request for Notification of a Change in Ownership or Any Proposed
Or Final Action to Amend, Transfer, or Otherwise Modify a Water Right

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

1. Water Right No(s): AJ AJ AJ 63-14, 63-5065, 63-5067 _____
Adjudication Claim No(s): _____
2. The following **REQUIRED** information must be submitted with this form:
 - A) Evidence of the security interest. This may be a copy of a **DEED of TRUST, MORTGAGE, CONTRACT OF SALE** or other legal document indicating your interest in the property and water rights or claims in question, **WITH ATTACHED LEGAL DESCRIPTION.**
 - B) A **FEE** of \$25.00 per water right or adjudication claim.
3. Name and Mailing Address of Person or Company holding Security Interest

D. L. Evans Bank _____
P.O. Box 87 _____
Twin Falls, ID 83303 _____
4. Name of Water Right Owner/Claimant(s) EDWARDS FAMILY LLC _____
5. Expiration Date of Notification Period 11-15-2022 _____
6. Is this a Renewal of Request for Notification? ☐ YES ☐ NO
7. Signature(s) (and title if applicable) MELINDA JOHNSON  _____
Loan Processor _____

For Office Use Only

Received by _____	Date _____	Fee <u>75.00</u>
Received by <u>KAW</u>	Date <u>12/14/07</u>	Receipt No. <u>C-085515</u>
Processed by <u>AJ</u>	Date <u>1-24-08</u>	WR _____ Date _____

RECORDATION REQUESTED BY:

D. L. Evans Bank
Meridian Fairview Branch
2560 E. Fairview Ave.
Meridian, ID 83642

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 11/30/07 02:27 PM
DEPUTY Bonnie Oberbillig
RECORDED - REQUEST OF
Pioneer

AMOUNT 6.00 2

107159498

WHEN RECORDED MAIL TO:

D. L. Evans Bank
Meridian Fairview Branch
2560 E. Fairview Ave.
Meridian, ID 83642

SEND TAX NOTICES TO:

Edwards Family LLC
4021 Hill Road
Boise, ID 83703

0A9055

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

MODIFICATION OF DEED OF TRUST

THIS MODIFICATION OF DEED OF TRUST dated November 29, 2007, is made and executed between Edwards Family LLC; an Idaho Limited Liability Company ("Grantor") and D. L. Evans Bank, whose address is Meridian Fairview Branch, 2560 E. Fairview Ave., Meridian, ID 83642 ("Lender").

DEED OF TRUST. Lender and Grantor have entered into a Deed of Trust dated November 16, 2007 (the "Deed of Trust") which has been recorded in Ada County, State of Idaho, as follows:

Deed of Trust dated November 16, 2007 and recorded November 20, 2007 as Instrument No. 107156054 and modified this date.

REAL PROPERTY DESCRIPTION. The Deed of Trust covers the following described real property located in Ada County, State of Idaho:

LOT 2, 3 AND 4 OF THOMAS F. EDWARDS SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED IN BOOK 11 OF PLATS AT PAGE 616, OFFICIAL RECORDS OF ADA COUNTY, IDAHO.

The Real Property or its address is commonly known as 4106 Sand Creek Street, Boise, ID 83703.

MODIFICATION. Lender and Grantor hereby modify the Deed of Trust as follows:

Deed of Trust being modified to add the following water right information:

TOGETHER WITH THE WATER RIGHTS REPRESENTED BY IDAHO STATE DEPARTMENT OF WATER RESOURCES WATER RIGHT NO. 63-14 WITH A CLAIMED PRIORITY OF NOVEMBER 22, 1926 TO 0.84 CFS OF GROUNDWATER, AND WATER RIGHT NO. 63-5065 WITH A CLAIMED PRIORITY OF OCTOBER 01, 1956 TO 0.04 CFS OF GROUNDWATER, AND WATER RIGHT NO. 63-5067 WITH A CLAIMED PRIORITY OF OCTOBER 1, 1930 TO 0.33 CFS OF GROUNDWATER, TOGETHER WITH ANY AND ALL OTHER WATER RIGHTS AND DITCH RIGHTS.

CONTINUING VALIDITY. Except as expressly modified above, the terms of the original Deed of Trust shall remain unchanged, and in full force and effect. Consent by Lender to this Modification does not waive Lender's right to require strict performance of the Deed of Trust as changed above nor obligate Lender to make any future modifications. Nothing in this Modification shall constitute a satisfaction of the promissory note or other credit agreement secured by the Deed of Trust (the "Note"). It is the intention of Lender to retain as liable all parties to the Deed of Trust and all parties, makers and endorser to the Note, including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, shall not be released by virtue of this Modification. If any person who signed the original Deed of Trust does not sign this Modification, then all persons signing below acknowledge that this Modification is given conditionally, based on the representation to Lender that the non-signing person consents to the changes and provisions of this Modification or otherwise will not be released by it. This waiver applies not only to any initial extension or modification, but also to all such subsequent actions.

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MODIFICATION OF DEED OF TRUST AND GRANTOR AGREES TO ITS TERMS. THIS MODIFICATION OF DEED OF TRUST IS DATED NOVEMBER 29, 2007.

GRANTOR:

EDWARDS FAMILY LLC

By: Garnette K. Monnie
Garnette K. Monnie, Member of Edwards Family LLC

LENDER:

D. L. EVANS BANK

Louise Smith
Authorized Officer