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Department of Water Resources

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

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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

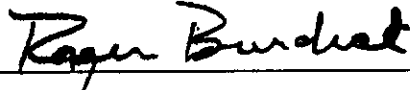
) **For Water Rights: 34-10901**
) **(United States Department of Energy,**
) **Idaho National Engineering and**
) **Environmental Laboratory)**
)
) **NOTICE OF COURT'S INTENT TO**
) **ISSUE PARTIAL DECREE NUNC PRO**
) **TUNC, AND NOTICE OF HEARING**
) **THEREON**
)

The above-captioned water right claim is for a federal reserve water right for use at the Idaho National Engineering and Environmental Laboratory. The claim was resolved pursuant to a *Water Rights Agreement Between the State of Idaho and the United States, for the United States Department of Energy*, Dated July 20, 1990 ("Agreement"). The *Agreement* was reported (abstracted) in the *Director's Report, Part III for Basin 34* (filed November 17, 1992), in the form of a *Water Rights Agreement Between the State of Idaho and the United States, for the United States Department of Energy*, which was executed in July of 1990 by the parties thereto. No objections were filed to this water right claim. However, a form of *Partial Decree* memorializing the *Agreement* was either never entered or cannot be located. On April 3, 2003, the parties submitted a proposed *Order* and *Partial Decree* (attached hereto). The Court has reviewed the same and intends to enter the *Order* and *Partial Decree* as proposed.

THEREFORE, IT IS ORDERED that a hearing will be held on this matter on **June 17, 2003 at 1:30 p.m.** at the Snake River Basin Adjudication Courthouse, 253 3rd Avenue North, Twin Falls, Idaho. Any party wishing to object or comment on the Court's proposed action shall do so at that time. attendance at this hearing by the claimant is not required, as the Court will take the proposed action in

the absence of any objection to the contrary. Telephone participation will be available by calling 1-918-583-3445 and entering 406128 when prompted.

Dated: This 18th day of April, 2003.

A handwritten signature in black ink, reading "Roger Burdick", written over a horizontal line.

ROGER BURDICK
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of this **NOTICE OF COURT'S INTENT TO ISSUE PARTIAL DECREE *NUNC PRO TUNC*, AND NOTICE OF HEARING THEREON** was mailed on April 16, 2003, with sufficient first-class postage to the following:

Director
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

James J. Dubois
Environmental and Natural Resources Division
U.S. Department of Justice
999 18th Street, Suite 945
Denver, CO 80202

Marc Haws
Amy S. Howe
U.S. Attorney's Office
P.O. Box 32
Boise, Idaho 83707

David Barber
State of Idaho
Attorney General's Office
P.O. Box 44449
Boise, Idaho 83711-4449


Deputy Clerk

APR - 3 2003

LODGED

By _____

Clerk

Deputy Clerk

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

ORDER OF PARTIAL DECREE

For Water Right 34-10901

Case No. 39576

(United States Department of Energy, Idaho
National Engineering and Environmental
Laboratory)

As a result of negotiations, the State of Idaho and United States entered into a Water Rights Agreement between the State of Idaho and the United States Department of Energy, dated July 20, 1990. The State of Idaho lodged the Water Rights Agreement with the Court by letter dated July 26, 1990. The agreement was also lodged with the Idaho Department of Water Resources in lieu of a claim for the Department of Energy.

The claim was reported in the Director's Report, Part II for Basin 34, filed November 17, 1992. Objections to the Director's Report for Basin 34 Parts I and II were required to be filed no later than March 1, 1993. No objections were filed to the water right claim no 34-10901.

The SRBA Court's register of action indicates that a Partial Decree was issued for this water right on January 15, 1998. However, neither the Clerk of the Court, the Idaho Department of Water Resources nor counsel and staff for the United States have been able to locate a copy of any Partial Decree actually issued on that date. It therefore appears that although the District Court intended to

enter a partial decree, either the decree has been lost, or no such decree was ever signed by the District Court.

Therefore, IT IS ORDERED that water right 34-10901 is hereby decreed nun pro tunc as set forth in the attached *Partial Decree Pursuant to I.R.C.P 54(b)*.

DATED _____

ROGER S. BURDICK
Presiding Judge
Snake River Basin Adjudication

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 34-10901

NAME AND ADDRESS: UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
785 DOE PLACE
IDAHO FALLS, ID 83402

SOURCE: GROUNDWATER

THE MAXIMUM RATE OF DIVERSION FROM ANY AND ALL WELLS SHALL NOT
EXCEED 80.0 CFS, AND THE MAXIMUM ANNUAL DIVERSION SHALL NOT
EXCEED 35,000 ACRE-Feet PER YEAR.

PRIORITY DATE: 04/07/1950

POINT OF DIVERSION:
ANY POINT WITHIN THE BOUNDARIES OF THE IDAHO NATIONAL ENGINEERING
AND ENERGY LABORATORY ("INEEL") (FORMERLY IDAHO NATIONAL
ENGINEERING LABORATORY OR "INEL"), AS DEFINED IN "PLACE OF USE."

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY

01-01 TO 12-31
THE PRIMARY PURPOSES AUTHORIZED BY CONGRESS FOR INEEL.

PLACE OF USE:
ANY PLACE WITHIN THE BOUNDARIES OF THE INEEL, AN AREA OF LAND
APPROXIMATELY 890 SQUARE MILES WHICH WAS ACQUIRED OR RESERVED IN
THE FOLLOWING PUBLIC LAND ORDERS OR CONDEMNATION CASES:
PUBLIC LAND ORDER 318, DATED MAY 13, 1946
PUBLIC LAND ORDER 545, DATED JANUARY 7, 1949
PUBLIC LAND ORDER 637, DATED APRIL 7, 1950
PUBLIC LAND ORDER 691, DATED DECEMBER 5, 1950
PUBLIC LAND ORDER 1770, DATED DECEMBER 19, 1958
UNITED STATES V. 18,217.58 ACRES OF LAND, MORE OR LESS, IN
BUTTE AND JEFFERSON COUNTIES, IDAHO, NO. 1227E (D.IDAHO
OCTOBER 29, 1945) (PRELIMINARY ORDER OF CONDEMNATION)
UNITED STATES V. 15,357.16 ACRES OF LAND, MORE OR LESS, IN
BUTTE, BINGHAM AND JEFFERSON COUNTIES, STATE OF IDAHO, NO. 1624
(D.IDAHO SEPTEMBER 19, 1951) (FINAL ORDER OF CONDEMNATION)
UNITED STATES V. 8,617.87 ACRES OF LAND, MORE OR LESS, IN THE
COUNTIES OF CLARK, BUTTE, JEFFERSON, BONNEVILLE, AND BINGHAM,
STATE OF IDAHO, NO. 2160 (D.IDAHO APRIL 27, 1959) (JUDGMENT)

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

THIS WATER RIGHT IS A FEDERAL RESERVED WATER RIGHT. THIS WATER
RIGHT INCORPORATES AND IS SUBJECT TO THE TERMS OF THE WATER
RIGHTS AGREEMENT BETWEEN THE STATE OF IDAHO AND THE UNITED STATES
FOR THE UNITED STATES DEPARTMENT OF ENERGY, DATED JULY 20, 1990
("AGREEMENT").

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).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication