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Department of Water Resources

DISTRICT COURT-SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
MAY 31 2002	
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

Case No. 39576

) Subcases: 36-8139 and 36-8140
)
) ORDER SETTING HEARING ON
) COURT'S MOTION TO ALTER OR
) AMEND JUDGMENT; I.R.C.P. 59(e)
)

On May 21, 2002, an *Amended Partial Decree* was issued for each of the above-captioned water rights. The previously issued *Partial Decrees* had been amended pursuant to a *Motion to Correct Clerical Error in Partial Decree* filed by the claimant on May 16, 2002. The purported clerical error was the inclusion in the *Partial Decree* of a "13,000 gallon per day" limitation, where such a limitation was not present in the Director's Report.

Upon further review, the Court is not convinced that the inclusion of the limitation is a result of a clerical error. Rather, the limitation may have been included pursuant to Judge Hurlbutt's *Memorandum Decision and Order Re: Basin-Wide Issue 12* (April 25, 1997). In that decision, it was ordered as follows:

The quantity used in cubic feet per second for a *de minimis* claim under I.C. § 42-1401A(12)¹ involving a diversion may be based on any hourly rate so long as the amount is capped to a quantity not to exceed 13,000 gallons per day.

Id (footnote added). The Court has reviewed the notices of claim for these water rights, and there appears to be no indication on the face of the claims whether the rights were claimed for "stock watering use" pursuant to Idaho Code 42-1401A(12) as contemplated by Judge Hurlbutt's decision.

Therefore, IT IS ORDERED that a hearing will be held on this matter on **June 18, 2002 at 1:30 p.m.** at the Snake River Basin Adjudication Courthouse, 253 3rd Avenue North, Twin Falls, Idaho.

The claimant should be prepared to discuss, and to present evidence if necessary, as to whether the subject claims are the type contemplated by Judge Hurlbutt's above-quoted ruling. A representative from IDWR shall be present to provide comment on the matter.

Dated May 31, 2002

Roger Burdick

ROGER BURDICK
Presiding Judge
Snake River Basin Adjudication

¹ Idaho Code 42-1401A(12) reads: "Stock watering use" means the use of water solely for livestock or wildlife where the total diversion is not in excess of thirteen thousand (13,000) gallons per day.

CERTIFICATE OF MAILING

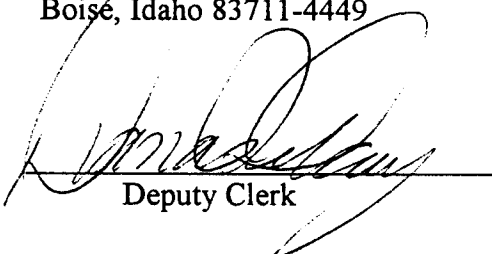
I certify that a true and correct copy of the ORDER SETTING HEARING ON COURT'S MOTION TO ALTER OR AMEND JUDGMENT; I.R.C.P. 59(e) was mailed on May 31, 2002 with sufficient first-class postage to the following:

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