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DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO
FILED
2005 MAY 26 AM 11 41

IN THE DISTRICT COURT FOR THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Subcase No. 92-22
	)	
Case No. 39576	)	ORDER GRANTING MOTION TO CORRECT
	)	CLERICAL ERRORS PURSUANT TO
_____	)	RULE 60(a)

Having reviewed the entire record relating to the motion filed by the Shoshone-Bannock Tribes on March 25, 2005, to correct clerical errors pursuant to Rule 60(a), I.R.C.P., and finding good cause for the granting of the motion,

IT IS ORDERED that the Shoshone-Bannock Tribes' Motion to Correct Clerical Errors Pursuant to Rule 60(a), I.R.C.P. is GRANTED.

IT IS FURTHER ORDERED that the Partial Final Consent Decree Determining Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin (August 2, 1995) is hereby AMENDED as follows:

1. The priority date for Allotment 61, Water Right No. 29-00231, Toponce Creek, is amended to provide a corrected date of July 6, 1868.

2. The priority date for Allotment 71, Water Right No. 29-00238, Toponce Creek is amended to provide a corrected date of July 6, 1868.

3. The language "Allotment 72 (NESW and NWSE Sec 36 Twp 6S Rge 38E) for 80 acres," which is listed under Water Right No. 29-00238, is deleted; and Water Right No. 29-00239 is added under the Consent Decree and shall read as follows:

Right No. 29-00239

- .i Source: Toponce Creek
- .ii Annual Diversion Volume: 273.7 AFY
- .iii Diversion Rate: 1.679 CFS
- .iv Annual Volume of Consumption: 162.9 AFY
- .v Priority Date: July 6, 1868
- .vi Points of Diversion: Toponce Creek
- .vii Purpose and Period of Use: Irrigation 1/1 – 12/31
- .viii Place of Use: Allotment 72 (NESW, NWSE, Sec 36 Twp 6S Rge 38E) for 83.97 acres.
- .ix. Basis of Right: The Winters Doctrine per the Memorandum Decision in United States v. Hibner, 27 F.2d 909 (D. Idaho, E.D. 1928) and the Decree of the United States District Court, Eastern Division, dated April 8, 1929.
- .x Matters necessary for definition, clarification or administration of the right: A corresponding reduction will be made to Right No. 29-12049.

4. Water Right No. 29-12049 is amended and shall read as follows:

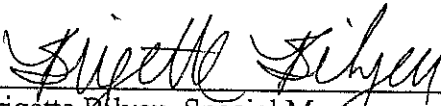
Right No. 29-12049

- i. Source: Bannock Creek
- ii. Annual Diversion Volume: 18,559.3 AFY
- iii. Diversion Rate: 98.87 CFS
- iv. Annual Volume of Consumptive Use: 11,042.10 AFY
- v. Priority Date: June 14, 1867
- vi. Existing Points of Diversion:
NENWSE Sec 32 Twp 7S Rge 33 E BM
SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in Twp 8S Rge 33E BM
NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all in Twp 9S Rge 33E BM
NESWSE Sec 6 Twp 7S Rge 33E BM
(3 – 20 HP pumps for Michaud Project)
Future Points of Diversion may be developed within the Bannock Creek basin to utilize this water right within the Bannock Creek drainage basin.
- vii. Purpose and Period of Use: 3/15 – 11/15

- viii. Place of Use: 4,708 present and future acres within the Reservation.
- ix. Basis of Right: Winters Doctrine
- x. Matter Necessary for Definition, Clarification or Administration of the Right:
 - .a The Tribes and the United States shall exercise this right in a manner that ensures person with water rights decreed in the Bannock Creek Decree [United States v. Daniels (D. Idaho April 9, 1907)] and that are confirmed in the SRBA continue to receive their full legal entitlement. This right is reduced to transfer water to Right No. 29-00239.

5. An Appendix which documents the corrections to the Consent Decree as set forth in this Order is attached hereto and it is incorporated into the Consent Decree.

DATED this 26 day of May, 2005.



Brigitte Bilyeu, Special Master
Snake River Basin Adjudication

**Partial Final Consent Decree Determining Rights of the
Shoshone-Bannock Tribes to the Use of Water in the
Upper Snake River Basin (August 2, 1995), Subcase No. 92-22**

Appendix Containing Amendments to Consent Decree

Consent Decree pages 27- 28:

Right No. 29-00231

- .i Source: Toponce Creek
- .ii Annual Diversion Volume: 259.3 AFY
- .iii Diversion Rate: 1.59 CFS
- .iv Annual Volume of Consumptive Use: 154.3 AFY
- .v Priority Date: July 6, 1868
- .vi Points of Diversion: Toponce Creek
- .vii Purpose and Period of Use:
Irrigation 1/1 – 12/31
- .viii Place of Use: Allotment 61 (NESW, SENW, Sec 35 Twp 6S
Rge 38E) for 79.53 acres.
- .ix Basis of Right: The Winters Doctrine per the Memorandum
Decision in United States v. Hibner, 27 F.2d 909 (D. Idaho, E.D. 1928)
and the Decree of the United States District Court, Eastern Division,
dated April 8, 1929.

Right No. 29-00238

- .i Source: Toponce Creek
- .ii Annual Diversion Volume: 282.5 AFY

- .iii Diversion Rate: 1.733 CFS
- .iv Annual Volume of Consumptive Use: 168.14 AFY
- .v Priority Date: July 6, 1868
- .vi Points of Diversion: Toponce Creek
- .vii Purpose and Period of Use:
Irrigation 1/1 - 12/31
- .viii Place of Use: Allotment 71 (SEnw, SWNE, Sec 36 TWP 6S
Rge 38E) for 86.67 acres.
- .ix Basis of Right: The Winters Doctrine per the Memorandum
Decision in United States v. Hibner, 27 F.2d 909 (D. Idaho, E.D. 1928)
and the Decree of the United States District Court, Eastern Division,
dated April 8, 1929.

Right No. 29-00239

- .i Source: Toponce Creek
- .ii Annual Diversion Volume: 273.7 AFY
- .iii Diversion Rate: 1.679 CFS
- .iv Annual Volume of Consumption: 162.9
- .v Priority Date: July 6, 1868
- .vi Points of Diversion: Toponce Creek
- .vii Purpose and Period of Use: Irrigation 1/1 - 12/31
- .viii Place of Use: Allotment 72 (NESW, NWSE, Sec 36 Twp 6S Rge 38E)
for 83.97 acres.

- .ix. Basis of Right: The Winters Doctrine per the Memorandum Decision in United States v. Hibner, 27 F.2d 909 (D. Idaho, E.D. 1928) and the Decree of the United States District Court, Eastern Division, dated April 8, 1929.
- .x Matters necessary for definition, clarification or administration of the right: A corresponding reduction will be made to Right No. 29-12049.

Consent Decree page 25:

Right No. 29-12049

- .i Source: Bannock Creek
- .ii Annual Diversion Volume: 18,559.3 AFY
- .iii Diversion Rate: 98.87 CFS
- .iv Annual Volume of Consumptive Use: 11,042.10 AFY
- .v Priority Date: June 14, 1867
- .vi Existing Points of Diversion:
 - NENWSE Sec 32 Twp 7S Rge 33 E BM
 - SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in Twp 8S Rge 33E BM
 - NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all in Twp 9S Rge 33E BM
 - NESWSE Sec 6 Twp 7S Rge 33E BM
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 - Future Points of Diversion may be developed within the Bannock Creek basin to utilize this water right within the Bannock Creek drainage basin.
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- .viii Place of Use: 4,708 present and future acres within the Reservation.
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 - .a The Tribes and the United States shall exercise this right in a manner that ensures person with water rights decreed in the Bannock Creek Decree [United States v. Daniels (D. Idaho April 9, 1907)] and that are confirmed in the SRBA continue to receive their full legal entitlement. This right is reduced to transfer water to Right No. 29-00239.

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO CORRECT CLERICAL ERRORS PURSUANT TO RULE 60(a) was mailed on May 26, 2005 with sufficient first-class postage prepaid to the following:

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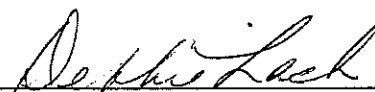
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