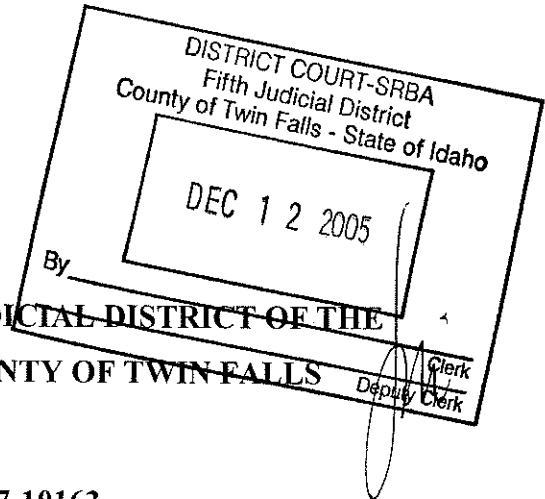




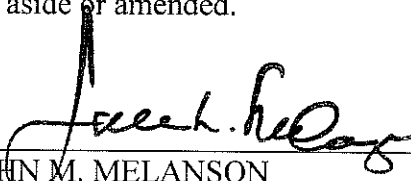
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	SUBCASE: 57-10163
	)	
Case No. 39576	)	ORDER OF REFERENCE APPOINTING
	)	SPECIAL MASTER THEODORE R. BOOTH
	)	

On December 15, 1997, a *Partial Decree* was issued in the above-captioned water right. On February 24, 2003, an *Order Amending Irrigation Period of Use Element in Partial Decree and Incorporating into Partial Decrees an Express Statement Regarding General Provisions, Nunc Pro Tunc* was filed in the above-captioned water right. On December 12, 2005, a *Motion to Set Aside Partial Decree* was filed by Cunningham Family Limited Partnership for the above-captioned water right.

Therefore, IT IS ORDERED that Special Master Theodore R. Booth be appointed to preside over the above-captioned *Motion* and conduct all proceedings necessary to issue a recommendation consistent with AO1, and the authority previously conferred in the *Order of Reference for Basin 57 Irrigation and Other Uses Rights*; as to the *Motion* and to the underlying merits as to how the *Amended Partial Decree* should be amended, if it is determined that said *Amended Partial Decree* should be set aside or amended.

Dated December 12, 2005.


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF REFERENCE APPOINTING SPECIAL MASTER THEODORE R BOOTH was mailed on December 12, 2005, with sufficient first-class postage to the following:

CUNNINGHAM FAMILY LIMITED
PARTNERSHIP
C/O P GARY CUNNINGHAM
909 HEARTLAND DR
NAMPA, ID 83686
Phone: 208-375-2714

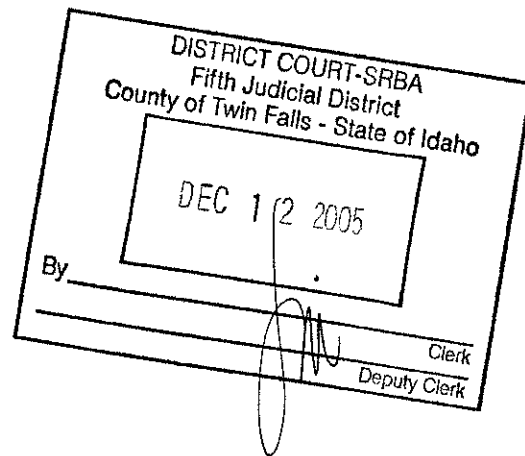
GERTRUDE L & GERAL CUNNINGHAM
HC 85 BOX 230
GRAND VIEW, ID 83624
Phone: 208-834-2244

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

A handwritten signature in cursive script, appearing to read "Julie Murphy", is written over a horizontal line.

December 7, 2005

Roger Burdick, Presiding Judge
Snake River Basin Adjudication
253 3rd Ave. North
P.O. Box 2707
Twin Falls, ID 83303



Dear Sir:

In the investigation process conducted by IDWR concerning Water Right 2-10027 and as we the owners (Cunningham Family Limited Partnership) were brought into the process it was discovered and acknowledged by IDWR that their records were incorrect and/or incomplete in reflecting the point of diversion and the place of use. Those errors have been acknowledged and corrected by IDWR; consequently, with this better information, we ask the District Court of the Snake River Basin Adjudication to take the necessary steps to have Water Right Decree 57-10163 set aside and replaced with one containing the corrected legal description.

Thank you for your attention to this matter and we look forward to hearing from you.

Respectfully,

A handwritten signature in cursive script, reading 'P. Gary Cunningham'.

Cunningham Family Limited Partnership
909 Heartland Drive
Nampa, ID 83686
Ph. 208-375-2714 (Sharon D. Smith, partner)

12/02/2005

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 2-10027

NAME AND ADDRESS: CUNNINGHAM FAMILY LIMITED PARTNERSHIP
909 HEARTLAND DR
NAMPA ID 83686

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 0.030 CFS

Right Nos. 2-10027 and 57-10163 are limited to a total combined diversion rate of 0.03 cfs for irrigation purposes.

PRIORITY DATE: 04/01/1968

POINT OF DIVERSION:

T04S R02E S27 SENENW Lot 2 Within OWYHEE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/01 11/15

0.030 CFS

PLACE OF USE:

IRRIGATION Within OWYHEE County

T04S R02E S27 Lot 2 NENW 0.4

T04S R02E S27 Lot 3 SENW 1.1

1.5 ACRES TOTAL

This right is limited to the irrigation of 1.0 acres within the place of use described above in a single irrigation season.

Right Nos. 2-10027 and 57-10163 are limited to the irrigation of a combined total of 1 acre in a single irrigation season.

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

District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls, ID 83303-2707

Important Information About Your Water Right

February 24, 2003

Gertrude L. Cunningham
Gerald J. Cunningham
HC 85 Box 230
Grand View, Idaho 83624

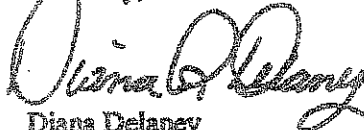
Dear Water Right Claimant(s):

This letter accompanies a copy of an *Order Amending Irrigation Period of Use Element in Partial Decree, Nunc Pro Tunc* (hereinafter "*Order*") for water right number 57-10163. According to Idaho Department of Water Resources (IDWR) records, you are the current owner of this water right. If you are not the current owner, please contact IDWR immediately at:

Idaho Department of Water Resources
1301 North Orchard
Boise, ID 83706
800-451-4129

The purpose of the *Order* is to set forth beginning and ending dates for the irrigation period of use for this water right. As stated in the face of the *Order*, this action was necessary following the decision of the Idaho Supreme Court in *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998). This *Order* also incorporates into the *Partial Decree* an express statement that the *Partial Decree* is subject to such general provisions necessary for the definition or for the efficient administration of the water right. This express statement is necessary to comply with the requirements of Idaho Code section 42-1412(6). This *Order*, in combination with the *Partial Decree* that was issued for this water right on December 15, 1997, sets forth all of the elements of your water right. The Snake River Basin Adjudication (SRBA) Court suggests that you keep this document in a safe location together with a copy of the *Partial Decree* to show evidence of this water right. The original of the *Order* and the original of the *Partial Decree* for this water right is on file with SRBA Court. If you do not have a copy of the original *Partial Decree*, one can be obtained by contacting the SRBA Court at (208) 736-3011. Please note that the *Order* is entered *Nunc Pro Tunc*, meaning that the *Order* will be treated as if it were issued on the same date that the *Partial Decree* was originally issued.

Sincerely,



Diana Delaney
Case Administrator

2003 FEB 24 PM 2 26

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	)	Water Right 57-10163
	)	
	)	ORDER AMENDING IRRIGATION PERIOD OF USE
	)	ELEMENT IN PARTIAL DECREE and
Case No. 39576	)	INCORPORATING INTO PARTIAL DECREES AN
	)	EXPRESS STATEMENT REGARDING GENERAL
	)	PROVISIONS, <i>NUNC PRO TUNC</i>

A *Partial Decree* was entered for the above-captioned irrigation water right on December 15, 1997. The period of use element was decreed as "irrigation season." In *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998), the Idaho Supreme Court remanded with the directive to include specific dates for the period of use element. Following remand, on July 26, 1999, IDWR filed a *Supplemental Director's Report, Reporting Area 2, IDWR Basin 57, Regarding Revision of Period of Use (For Irrigation Water Uses) and Conjunctive Management General Provisions*, which included an irrigation period of use recommendation for this water right. No objections were filed to this *Supplemental Director's Report*.

THEREFORE, IT IS ORDERED that the period of use element for the irrigation portion of the above-captioned water right is hereby amended and decreed as:

PERIOD OF USE: 03-01 to 11-15

IT IS FURTHER ORDERED that the *Partial Decree* for the above-captioned water right is hereby amended and decreed to contain the following:

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).

This order is being entered *nunc pro tunc* as of the date the *Partial Decree* was issued and is not intended to modify subsequent administrative changes for the water right, if any, which occurred following entry of the *Partial Decree*.

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.

Dated February 24, 2003



ROGER 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 57-10163

1997 DEC 15 AM 10:59

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED _____

NAME & ADDRESS: GERTRUDE L. CUNNINGHAM
GERALD J. CUNNINGHAM
HC 85 BOX 230
GRAND VIEW ID 83624

SOURCE: GROUNDWATER

QUANTITY: 0.07 CFS
4.5 AFD

THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC AND
STOCKWATER USES SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 01/01/1910

POINT OF DIVERSION: T04S R02E S27 LOT 2 (SENEWA)

Within OWYHEE County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	Irrigation Season	0.03 CFS
			4.5 AFD
	STOCKWATER	01-01 12-31	0.05 CFS
	DOMESTIC & HOME	01-01 12-31	0.02 CFS

PLACE OF USE: IRRIGATION Within OWYHEE County
T04S R02E S27 Lot 2 (SENEWA) 1
1 ACRES TOTAL

STOCKWATER Within OWYHEE County
T04S R02E S27 Lot 2 (SENEWA)

DOMESTIC Within OWYHEE County
T04S R02E S27 Lot 2 (SENEWA)

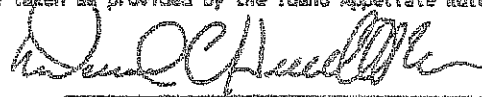
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
DOMESTIC USE AND STOCKWATER USE IS NOT A DETERMINATION OF
HISTORICAL BENEFICIAL USE.

RIGHTS HAVE ALSO BEEN CLAIMED TO WATER FROM BASIN 02 FOR THE
SAME PURPOSE OF USE AT THE SAME PLACE OF USE DESCRIBED ABOVE,
WHICH WILL BE INCLUDED IN A DIRECTOR'S REPORT TO BE FILED AT A
LATER DATE. ANY WATER RIGHTS RECOMMENDED IN THE BASIN 02 REPORT
FOR THE SAME PURPOSE OF USE AT THE SAME PLACE OF USE DESCRIBED
ABOVE WILL CONTAIN COMBINED USE LIMITATIONS FOR THIS RIGHT AND
THE BASIN 02 RIGHTS.

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.



DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication