

NOV 21 2006
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
NOV 20 2006	
By _____	Clerk
_____	Deputy Clerk

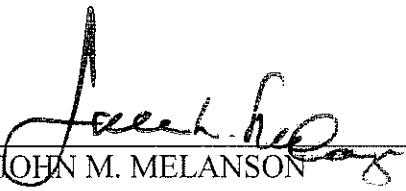
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	SUBCASE: 85-11742
	)	
Case No. 39576	)	ORDER OF REFERENCE APPOINTING
	)	SPECIAL MASTER THEODORE R. BOOTH
_____	)	

On December 27, 2000, a **Partial Decree** was issued in the above-captioned water right.
On November 20, 2006, a **Motion to Set Aside/Modify Partial Decree** was filed by Gary D.
McIntire 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 85 Domestic and Stock Rights**; as to the **Motion** and to the underlying
merits as to how the **Partial Decree** should be amended, if it is determined that said **Partial
Decree** should be set aside or amended.

Dated November 20, 2006.


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 November 20, 2006, with sufficient first-class postage to the following:

DONALD MC INTIRE
BOX 137
LAPWAI, ID 83540
Phone: 208-843-2451

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

GARY D MC INTIRE
28872 GOLDEN RD
LAPWAI, ID 83540
Phone: 208-843-9112

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

To: SRBA

P.O. Box 2707

Twin Falls, ID. 83303

ATTN: Court Clerk, via Julie Murphy

17 Nov. 06 PM
520

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
NOV 20 2006	
By	
	Deputy Clerk

District Court - Need a Motion To Set aside Decree

This is a letter, to Inform SRBA of AN ERROR
IN MAP Description, Location of Township Parcel;
For Water Right of Ownership, Change. Water Right
#85-11742. MAP Description as T35N R04W S14
SENE Needs to be changed to T35N R04W S14
SESE! Water Right New Ownership is MR.

GARY D. MCINTIRE - Same Address as: 25872

Golden Road, Lapwai, ID. 83540; Old Ownership

was MR. Donald H. McIntire - Same Address. Reason

For Change is Donald H McIntire is ~~Deceased~~ Deceased

Thank you; For your Cooperation.
Mr. Gary McIntire - 208.843-9112.



DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

November 14, 2006

GARY D MCINTIRE
28872 GOLDEN RD
LAPWAI ID 83540

**RE: NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP REGARDING
WATER RIGHT 85-11742**

Dear Mr. McIntire,

As we discussed yesterday, I briefly reviewed the Notice of Change of Ownership Change form received by the Department of Water Resources (department) on July 14, 2005 for the above referenced water right. As you indicated to me, you are the current owner of a lot previously owned by your father, Donald H. McIntire. Based on information you provided with the Change of Ownership form, the lot is known as parcel number RP 0313000101014B A, and is located in the southeast quarter of the southeast quarter (SESE) of section 14, Township 35 North, Range 04 West.

Enclosed is a copy of the partial decree for water right 85-11742. The point of diversion (well) and the place of use authorized under this water right are located in the southeast quarter of the northeast quarter (SENE) of section 14, Township 35 North, Range 04 West. It appears that the original claim filed with the Snake River Basin Adjudication (SRBA) identified the location place of use in the SENE rather than the SESE. The water right has since been decreed in the SRBA with a place of use in the SENE. Since you have not provided documentation of ownership of property in the SENE, the department cannot currently change the water right into your name.

If your father never owned property in the SENE quarter quarter of section 14, there may have been an error on the original claim. As we discussed, you may want to contact the SRBA to determine whether the partial decree can be changed to reflect a place of use and point of diversion in the SESE. The telephone number for the SRBA is 208-736-3011.

The department cannot change the name on the water right unless the place of use authorized under the water right is changed to the location of the property you own, or you can submit documentation to show you own the place of use currently described on the water right. For reference, I have also enclosed a map of the current place of use identified on the water right as well as the location of your property.

*Via Cynthia Bridges Clark - IDWR
208, 287-4546*

Idaho Department of Water Resources

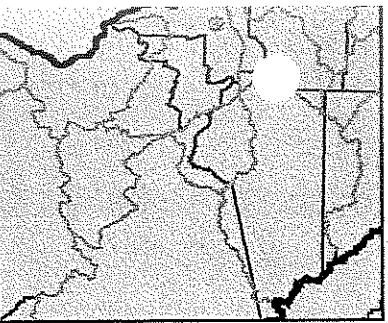


Water Right:
85-11742
(Domestic)

T35N R04W SEC. 14
R04W

Legend

-  Point of Diversion
-  Place of Use
-  Townships
-  PLS Sections
-  Quarter Quarters

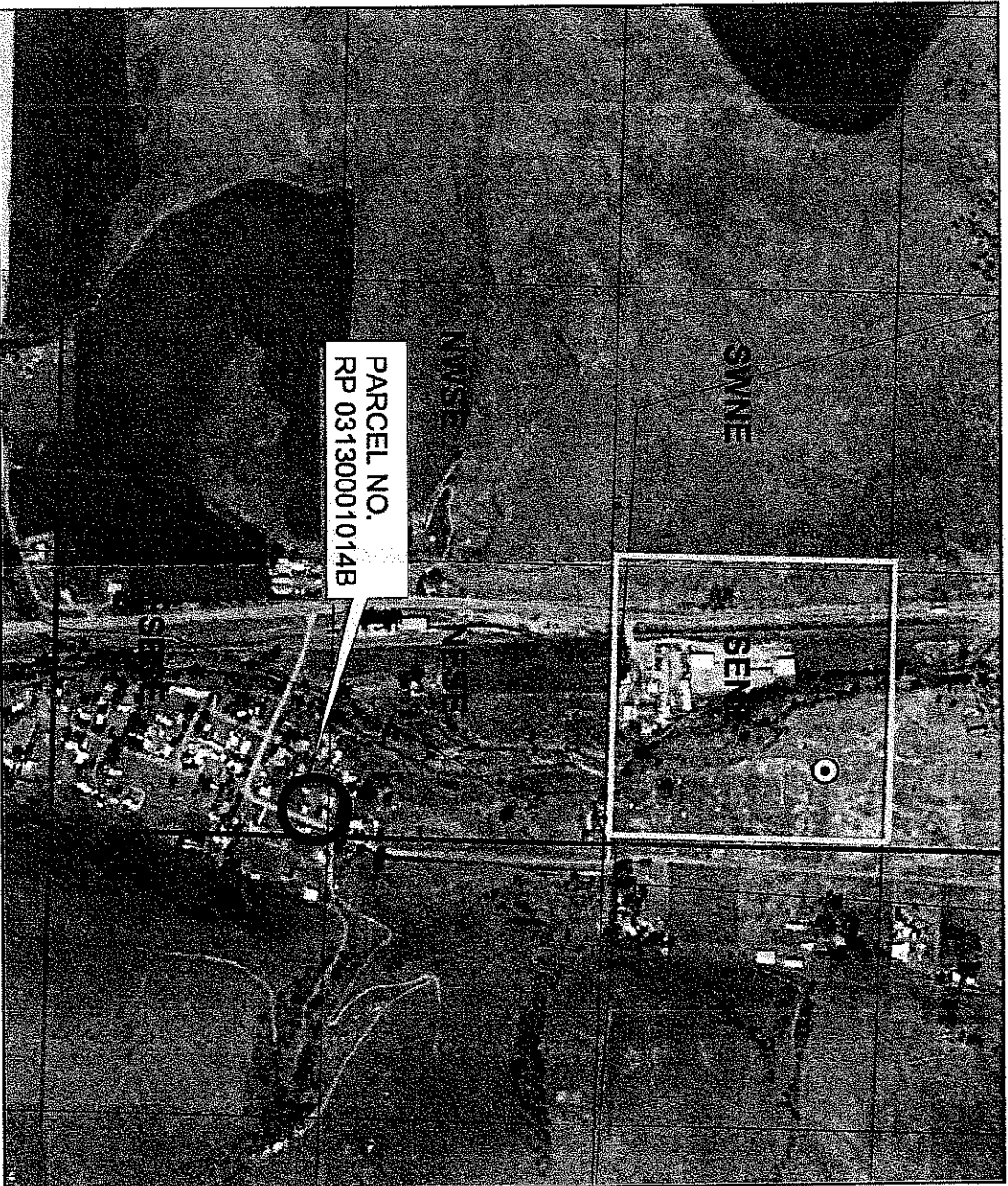


Nez Perce County
IDWR Basin 85

Prepared by C. Clark
November 14, 2006
Aerial Photography



T35N



PARTIAL DECREE 85-11742

Issued on 12-27-2000.

This is not an official copy.

Contact IDWR or the Court for a Certified Copy.

Choose Landscape Orientation when printing.

NAME AND ADDRESS: DONALD MC INTIRE
BOX 137
LAPWAI, ID 83540

SOURCE: GROUNDWATER

QUANTITY: 0.04 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 01/01/1960

POINT OF DIVERSION: T35N R04W S14 NESENE Within Nez Perce County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
 Domestic 1 HOME 01-01 TO 12-31 0.04 CFS

PLACE OF USE: Domestic Within Nez Perce County
 T35N R04W S14 SENE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT 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. I.C. SECTION 42-1412(6).

[Return to SRBA Home Page](#)

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)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 85-11742

NAME AND ADDRESS: DONALD MC INTIRE
BOX 137
LAPWAI, ID 83540

SOURCE: GROUNDWATER

QUANTITY: 0.04 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 01/01/1960

POINT OF DIVERSION: T35N R04W S14 NESENE Within Nez Perce County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic 1 HOME	01-01 TO 12-31	0.04 CFS

PLACE OF USE: Domestic T35N R04W S14 SENE Within Nez Perce County

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT 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. 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