

MAY 11 2009

DEPARTMENT OF  
WATER RESOURCES

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*Attorneys for Moonshine Ventures, LLC*

**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

Subcase No. 69-4103B

**STIPULATION TO AMEND  
PARTIAL DECREE**

The parties to the above-captioned subcase, by and through their respective counsel, and pursuant to Idaho Rule of Civil Procedure 60(a), hereby stipulate to amend the point of diversion description in the partial decree entered in this subcase as shown in the attached Exhibit A.

On January 30, 2008, the Presiding Judge issued partial decrees in a group of subcases that included this subcase.<sup>1</sup> The parties to these subcases entered into a Settlement Agreement to resolve objections filed in each of the subcases. The Settlement Agreement is referenced in a remark included in each partial decree. Section 3(a) of the Settlement Agreement states: "If, in complying with these provisions, Moonshine Ventures's [the claimant in the above-captioned

<sup>1</sup> These subcases were 69-4103A, 69-4103B, 69-4104A, 69-4104B, and 69-4122. Although Jack and Ava E. Rubelt were not a party to subcase number 69-4103B and did not sign the SF5 in that subcase, they were party to the Settlement Agreement executed to resolve objections in this group of subcases. For that reason, they are party to this Stipulation.

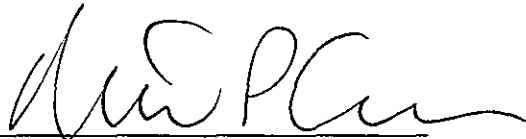
subcase] point of diversion is located in T18N R03W S15 NW1/4 NE1/4 (rather than in the NE1/4 NE1/4), the Parties agree to not oppose Moonshine Ventures's efforts to amend its decreed water right accordingly."

The point of diversion for water right 69-4103B is, in fact, located in the NW1/4 NE1/4 of Section 15, T18N, R03W, rather than in the NE1/4 NE1/4. Accordingly, the parties stipulate that the quarter-quarter description for water right 69-4103B should be corrected as shown in Exhibit A.

This Stipulation may be executed in counterparts. E-mailed and facsimile signatures shall be treated as originals.

GIVENS PURSLEY LLP

Dated: 5/8/09

By   
Michael P. Lawrence  
Attorneys for Moonshine Ventures, LLC

HOLLAND & HART LLP

Dated: \_\_\_\_\_

By \_\_\_\_\_  
William G. Myers III  
Attorneys for Harold A. and Evea H. Powers

MORROW, DINIUS & FISCHER, PLLC

Dated: \_\_\_\_\_

By \_\_\_\_\_  
Julie K. Fischer  
Attorneys for Jack and Ava E. Rubelt

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GIVENS PURSLEY LLP

Dated: \_\_\_\_\_

By \_\_\_\_\_  
Michael P. Lawrence  
Attorneys for Moonshine Ventures, LLC

HOLLAND & HART LLP

Dated: April 2, 2009

By [Signature]

William G. Myers III  
Attorneys for Harold A. and Evea H. Powers

MORROW, DINTUS & FISCHER, PLLC

Dated: \_\_\_\_\_

By \_\_\_\_\_  
Julie K. Fischer  
Attorneys for Jack and Ava E. Rubelt

subcase] point of diversion is located in T18N R03W S15 NW1/4 NE1/4 (rather than in the NE1/4 NE1/4), the Parties agree to not oppose Moonshine Ventures's efforts to amend its decreed water right accordingly."

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Dated: \_\_\_\_\_

By \_\_\_\_\_  
Michael P. Lawrence  
Attorneys for Moonshine Ventures, LLC

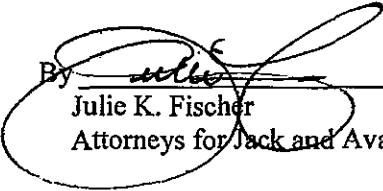
HOLLAND & HART LLP

Dated: \_\_\_\_\_

By \_\_\_\_\_  
William G. Myers III  
Attorneys for Harold A. and Evea H. Powers

MORROW, DINIUS & FISCHER, PLLC

Dated: 4-7-09

By  \_\_\_\_\_  
Julie K. Fischer  
Attorneys for Jack and Ava E. Rubelt

**IDWR CONCURRENCE:**

**IDAHO DEPARTMENT OF WATER  
RESOURCES**

Dated: 4/21/09

By   
Michael Ciscell

**IDAHO ATTORNEY GENERAL'S OFFICE**

Dated: 4/21/09

By   
Chris M. Bromley  
Deputy Attorney General

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8<sup>th</sup> day of MAY 2009, the foregoing was filed, served, or copied as follows:

#### ORIGINAL FILED

Fifth Judicial District Court  
Snake River Basin Adjudication  
253 Third Avenue North  
P.O. Box 2707  
Twin Falls, ID 83303-2707

☒ U. S. Mail  
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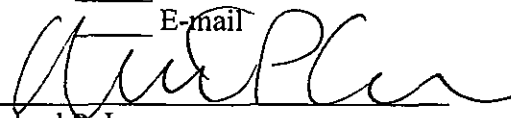
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Chief of Natural Resource Division  
Office of the Attorney General  
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USDI Bureau of Reclamation  
c/o US Department of Justice  
Environment & Natural Resources  
550 West Fort Street, MSC 033  
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☐ Facsimile  
☐ E-mail

  
Michael P. Lawrence

DISTRICT COURT - SRBA  
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 000 JAN 30 PM 9 18

Water Right 69-04103B

NAME AND ADDRESS: MOONSHINE VENTURES LLC  
PO BOX 44  
COUNCIL, ID 83612

SOURCE: CROOKED RIVER TRIBUTARY: WILDHORSE RIVER

QUANTITY: 1.94 CFS

Right Nos. 69-4103B and 69-4104B are limited to a total combined diversion rate of 1.94 cfs.

PRIORITY DATE: 04/01/1955

POINT OF DIVERSION: T18N R03W S15 ~~NENE~~ Within Adams County  
NWNE

| PURPOSE AND PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|----------------------------|----------------|----------------|----------|
|                            | Irrigation     | 04-01 TO 10-31 | 1.94 CFS |

| PLACE OF USE: | Irrigation       |           | Within Adams County |
|---------------|------------------|-----------|---------------------|
|               | T18N R03W S14    | NWNE 1.0  | NENW 20.0           |
|               |                  | NWNW 40.0 | SNNW 19.0           |
|               | S15              | NENE 17.0 |                     |
|               | 97.0 Acres Total |           |                     |

Right Nos. 69-4103B and 69-4104B are limited to the irrigation of a combined total of 97 acres in a single irrigation season.

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

Right nos. 69-4103A, 69-4103B, 69-4104A, 69-4104B and 69-4122 shall be administered in accordance with that certain Settlement Agreement recorded as instrument number 115466, Adams County Records Office.

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.

  
John M. Melanson  
Presiding Judge of the  
Snake River Basin Adjudication