

RECEIVED
MAR 25 2011
DEPARTMENT OF
WATER RESOURCES

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

MAR 24 2011

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

) Water Right Nos.: 45-04087

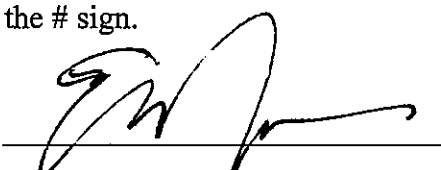
Case No. 39576

)
) NOTICE OF COURT'S INTENT TO
) ISSUE AMENDED PARTIAL DECREE,
) AND NOTICE OF HEARING THEREON
)

A *Partial Decree* was issued for the above-captioned water right on November 29, 2010. On March 23, 2011, the Court received correspondence from the Idaho Department of Water Resources notifying the Court that the *Partial Decree* for the above-captioned water right contains an error with respect to the quantity element. A copy of the March 23, 2011 correspondence is attached hereto as Exhibit A. In particular, the correspondence asserts that while the *Partial Decree* contains a quantity of 22.00 afy, the quantity should have been 24.00 afy. Therefore, it is the intent of the Court to issue an *Amended Partial Decree* correcting the above-mentioned clerical error in accordance with the attached Exhibit B.

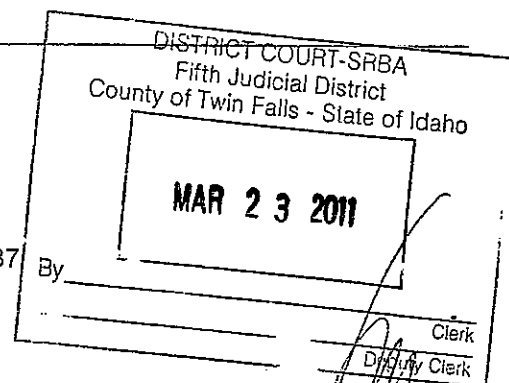
Therefore, IT IS ORDERED that a hearing will be held on this matter on **June 21, 2011, at 1:30 p.m.** at the Snake River Basin Adjudication Courthouse, 253 3rd Avenue North, Twin Falls, Idaho. Any party wishing to object or comment on the Court's proposed action shall do so at that time. Attendance at this hearing by the claimant is not required, as the Court will take the proposed action in the absence of any objection to the contrary. Telephone participation will be available by calling 1-215-446-0193 and when prompted entering code 406128 followed by the # sign.

Dated: March 24, 2011


ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

Julie Murphy

From: Saxton, Craig [Craig.Saxton@idwr.idaho.gov]
Sent: Wednesday, March 23, 2011 3:25 PM
To: Julie Murphy
Cc: Spencer, Nick; Kelly, Vicki
Subject: Clerical Error by IDWR carried to Partial Decree 45-4087
Attachments: PD 45-4087.pdf; 45-4087 Typo Error.RTF



Good Afternoon Julie,

I hope you are the right person to contact. Previously I have contacted Diana with an issue like this, but I saw in the court documents that the last one of these I was involved in (2-7221) was forwarded to you.

It appears that 45-4087 was partially decreed on 11-29-2010 with a typo. The partial decree identifies the individual diversion volume for municipal use as 24.00 AFY yet the max diversion volume is 22.00 AFY. The max diversion volume should be 24.00 AFY. This was an error by the Department as the last Amended Directors Report submitted to the court listed the incorrect max diversion volume of 22.00 AFY.

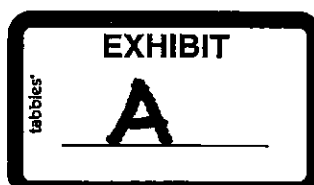
I have attached a copy of the partial decree that shows the error and then a "corrected" recommendation that shows the change that should be made.

Because this appears to just be a typo, in the past the court was able to issue a "Notice of Court's Intent to Issue Amended Partial Decree" to fix the error (see subcase 2-7221 for an example).

Is it possible we could do something like that for this situation.

Thanks,

Craig



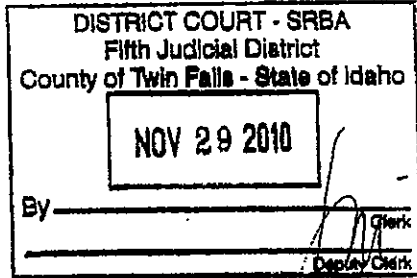
3/24/2011

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 45-04087



NAME AND ADDRESS: CITY OF BURLEY
PO BOX 1090
BURLEY, ID 83318

SOURCE: GROUND WATER

QUANTITY: 0.12 CFS
22.00 AFY

PRIORITY DATE: 06/01/1940

POINT OF DIVERSION: T10S R23E S28 NWNE Within Cassia County
NENW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Municipal	03-15 TO 11-15	0.12 CFS 24.00 AFY

PLACE OF USE:
PLACE OF USE IS WITHIN THE SERVICE AREA OF THE CITY OF BURLEY
MUNICIPAL WATER SUPPLY SYSTEM AS PROVIDED FOR UNDER IDAHO LAW.

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

TO THE EXTENT NECESSARY FOR ADMINISTRATION BETWEEN POINTS OF
DIVERSION FOR GROUND WATER, AND BETWEEN POINTS OF DIVERSION FOR
GROUND WATER AND HYDRAULICALLY CONNECTED SURFACE SOURCES, GROUND
WATER WAS FIRST DIVERTED UNDER THIS RIGHT FROM THE WEST WELL
LOCATED IN T10S, R23E, S28, SE1/4.

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.

Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

03/23/2011
DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAR 23 2011

By _____

Clerk

Deputy Clerk

RIGHT NUMBER: 45-4087
NAME AND ADDRESS: CITY OF BURLEY
PO BOX 1090
BURLEY ID 83318

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.120 CFS
24.00 ~~22.00~~ AFY

PRIORITY DATE: 06/01/1940

POINT OF
DIVERSION:

T10S R23E S28 NWNE Within CASSIA County
T10S R23E S28 NENW Within CASSIA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
MUNICIPAL	03/15 11/15	0.120 CFS 24.00 AFY

PLACE OF USE:

Place of use is within the service area of the City of Burley municipal water supply system as provided for under Idaho Law.

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.

To the extent necessary for administration between points of diversion for ground water, and between points of diversion for ground water and hydraulically connected surface sources, ground water was first diverted under this right from the west well located in T10S, R23E, S28, SENENW

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

The rights listed below share a common delivery system for the irrigation of the Pleasant View Cemetery. Combined rights 45-4087 and 45-7114.

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

AMENDED

In Re SRBA.
Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 45-04087

NAME AND ADDRESS: CITY OF BURLEY
PO BOX 1090
BURLEY, ID 83318

SOURCE: GROUND WATER

QUANTITY: 0.12 CFS
24.00 AFY

PRIORITY DATE: 06/01/1940

POINT OF DIVERSION: T10S R23E S28 NWNE Within Cassia County
NENW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Municipal	03-15 TO 11-15	0.12 CFS 24.00 AFY

PLACE OF USE: PLACE OF USE IS WITHIN THE SERVICE AREA OF THE CITY OF BURLEY
MUNICIPAL WATER SUPPLY SYSTEM AS PROVIDED FOR UNDER IDAHO LAW.

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

TO THE EXTENT NECESSARY FOR ADMINISTRATION BETWEEN POINTS OF
DIVERSION FOR GROUND WATER, AND BETWEEN POINTS OF DIVERSION FOR
GROUND WATER AND HYDRAULICALLY CONNECTED SURFACE SOURCES, GROUND
WATER WAS FIRST DIVERTED UNDER THIS RIGHT FROM THE WEST WELL
LOCATED IN T10S, R23E, S28, SENENW.

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).

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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.

Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the NOTICE OF COURT'S INTENT TO ISSUE AMENDED PARTIAL DECREE AND NOTICE OF HEARING THEREON was mailed on March 24, 2011, with sufficient first-class postage to the following:

CITY OF BURLEY

Represented by:

MICHAEL P. TRIBE

615 H STREET

PO BOX 396

RUPERT, ID 83350-0396

Phone: 208-436-4717

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098