

RECEIVED
JUN 01 2011
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
MAY 31 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.: 63-21363 & 63-32241
)
Case No. 39576) NOTICE OF COURT'S INTENT TO
) ISSUE AMENDED PARTIAL DECREES,
) AND NOTICE OF HEARING THEREON
)
_____)

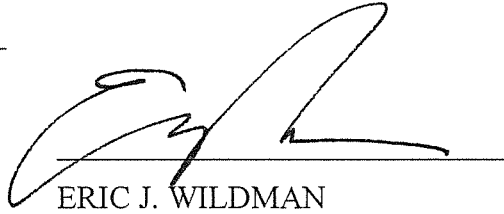
Partial Decrees were issued for the above-captioned water rights on January 15, 2009. On May 23, 2011, the Court received correspondence from the Idaho Department of Water Resources notifying the Court that the *Partial Decrees* for the above-captioned water rights contain an error with respect to the quantity element. A copy of the May 23, 2011 correspondence is attached hereto as Exhibit A. In particular, the correspondence asserts that while the *Partial Decrees* contain the following remark under the quantity element, the below-quoted remark should not have been included in the *Partial Decrees* for the above-captioned water rights:

Whenever it becomes necessary for the watermaster to deliver this right the following condition shall apply. This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and proceeding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, when this right and the other rights containing this condition, beginning with the latest and proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities.

Therefore, it is the intent of the Court to issue *Amended Partial Decrees* correcting the above-mentioned clerical errors in accordance with the attached Exhibits B & C.

Therefore, IT IS ORDERED that a hearing will be held on this matter on **August 16, 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.

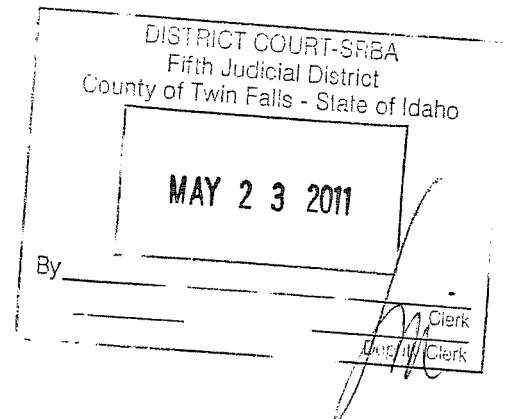
Dated: May 31, 2011


ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

May 20, 2011



Hon. Eric Wildman
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

RE: Subcase Nos. 63-21363 & 63-32241 (Eureka Ditch Company No. 2)

Dear Judge Wildman:

The Director's Report for Basin 63, Part 3 was filed with the SRBA Court on December 19, 2006. The deadline to file objections was June 20, 2007. Contained in the Director's Report for Basin 63, Part 3 were recommendations for water right numbers 63-21363 & 63-32241. No objections were filed to these water right recommendations and partial decrees were issued on January 15, 2009.

It has recently come to the attention of the Department that the recommendations for these water rights contained a clerical error, wherein the Department inadvertently recommended these water rights with a "step down provision" in the quantity description of these water rights. While this water right claimant does own other water rights wherein this provision is necessary because of a prior decree, these beneficial use rights should not contain this provision.

I am attaching Amended Director's Reports wherein the changes concerning removal of the provision is identified in strikeout format for ease of identification. Also, it should be noted that no changes are being proposed to the digital boundary of these water rights, thus no updated maps or compact disks are included with this filing.

Accordingly, it seems appropriate for the Court to set aside the partial decrees pursuant to Rule 60(a) of the Idaho Rules of Civil Procedure and decree the rights as described in the attached Amended Director's Reports.

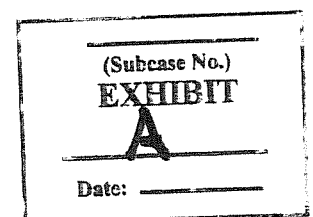
I am sending a copy of this letter to the claimant, so that it is aware of this error.

If you should have any questions or comments, please feel free to contact me at (208) 287-4813.

Sincerely,

Nicholas B. Spencer
Deputy Attorney General, IDWR

Enclosures



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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 63-21363

NAME AND ADDRESS: EUREKA DITCH CO NO 2
C/O BILL DORAMUS
21766 HOWE RD
CALDWELL, ID 83607

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 46.00 CFS

PRIORITY DATE: 05/11/1950

POINT OF DIVERSION: T04N R03W S07 SESW (Rediversion) Within Canyon County
S17 SENW
R04W S12 NESE (Rediversion)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-15	46.00 CFS

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only when the natural flow in the Boise River below the Star Bridge in Township 04 North, Range 01 West, Section 18, NE of the SE of the SE, Boise Meridian (approximate river mile 33.9) is sufficient for water to be available for diversion at the point of diversion described above, provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

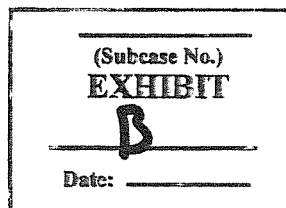
PLACE OF USE:

This right when combined with Rights No. 63-222D, 63-223K, 63-3572, 63-21361, 621362, and 63-32241 can be used to irrigate up to 2990 acres within the boundary of the Eureka Ditch Company No. 2.

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

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. 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

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 63-32241

NAME AND ADDRESS: EUREKA DITCH CO NO 2
C/O BILL DORAMUS
21766 HOWE RD
CALDWELL, ID 83607

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 24.00 CFS

PRIORITY DATE: 07/20/1959

POINT OF DIVERSION: T04N R03W S07 SESW (Rediversion) Within Ada County
S17 SENW
R04W S12 NESE (Rediversion)

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Irrigation 03-01 TO 11-15 24.00 CFS

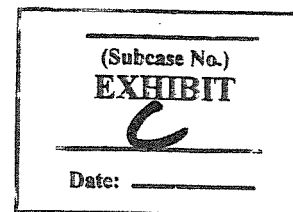
Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only when the natural flow in the Boise River below the Star Bridge in Township 04 North, Range 01 West, Section 18, NE of the SE of the SE, Boise Meridian (approximate river mile 33.9) is sufficient for water to be available for diversion at the point of diversion described above, provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE:

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

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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

CERTIFICATE OF MAILING

I certify that a true and correct copy of the NOTICE OF COURT'S INTENT TO ISSUE AMENDED PARTIAL DECREES AND NOTICE OF HEARING THEREON was mailed on May 31, 2011, with sufficient first-class postage to the following:

EUREKA DITCH CO NO 2
C/O BILL DORAMUS
21766 HOWE RD
CALDWELL, ID 83607
Phone: 208-454-2303

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