

RECEIVED

JUL 21 2011

DEPARTMENT OF
WATER RESOURCES

Fifth Judicial District
County of Twin Falls - State of Idaho

JUL 20 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.: 41-00057

Case No. 39576

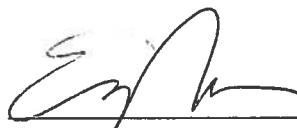
)
) NOTICE OF COURT'S INTENT TO
) ISSUE AMENDED PARTIAL DECREE,
) AND NOTICE OF HEARING THEREON

_____)
A *Partial Decree* was issued for the above-captioned water right on June 10, 2002. On July 19, 2011, the Clerk of the Court received correspondence from the Idaho Department of Water Resources notifying the Court that the *Partial Decree* contains an error with respect to the point of diversion element. A copy of the July 18, 2011 correspondence is attached hereto as Exhibit A. The correspondence asserts that the legal description in the *Partial Decree* for the point of diversion – "T11S R31E S31 SWNWNE" – is in error, and that the point of diversion should in fact be "T09S R31E S31 SWNWNE." 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 **November 15, 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: _____

July 20, 2011



ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication



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

July 18, 2011

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

JUL 19 2011

By _____ Clerk /
Deputy Clerk

Ms. Diana Delaney
SRBA Case Administrator
Snake River Basin Adjudication Court
P.O. Box 2707
Twin Falls, Idaho 83303-2707

Re: Decreed right 41-57 (Direct Communications Star West, Inc.)

Dear Ms. Delaney:

Legal counsel for the above-referenced water right holder has brought to IDWR's attention the fact that there is a clerical error in the partial decree for water right 41-57. The error originated in the original SRBA claim for the right, got carried over into IDWR's recommendation of the claim, and from there into the partial decree.

The error is in the point of diversion element of the right. The legal description of the point of diversion reads "T11S R13E S31 SWNE". The point of diversion in fact is in Township 09 South rather than Township 11 South.

This appears to me to be a clerical error that the SRBA Court is authorized to correct on its own motion pursuant to Rule 60(a), Idaho Rules of Civil Procedure. Therefore I request the Court to review the nature of the error and, if appropriate, to correct it per the Court's normal procedure. To assist the Court in that regard I have enclosed a draft proposed partial decree highlighting and correcting the error.

Thank you very much for your attention to this matter.

Very truly yours,

NICHOLAS B. SPENCER
Deputy Attorney General
Idaho Department of Water Resources

Enclosure: 1

cc (w/ enc): Michael Lawrence, Esq.

(Subcase No.)
EXHIBIT
A
Date: _____

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

DISTRICT 7/15/2011 - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

JUL 19 2011

By _____ Clerk

Deputy Clerk

RIGHT NUMBER: 41-57

NAME AND ADDRESS: DIRECT COMMUNICATIONS STAR WEST INC
PO BOX 270
ROCKLAND ID 83271

SOURCE: SPRING CREEK

TRIBUTARY: ROCK CREEK

QUANTITY: 0.190 CFS

PRIORITY DATE: 04/30/1880

THIS WATER RIGHT IS SUBORDINATE TO WATER RIGHT NO. 41-4031.

POINT OF
DIVERSION:

~~THIS~~ T09S R31E S31 SWNWNE Within POWER County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.190 CFS

PLACE OF USE: IRRIGATION in POWER County

T09S R31E S31 SENW 9.60
9.6 ACRES TOTAL

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 - Decreed

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 41-00057

NAME AND ADDRESS: ARTHUR H NIELSON
BONNIE F NIELSON
1655 EAST CENTER
POCATELLO, ID 83201

SOURCE: SPRING CREEK TRIBUTARY: ROCK CREEK

QUANTITY: 0.19 CFS

PRIORITY DATE: 04/30/1880

THIS WATER RIGHT IS SUBORDINATE TO WATER RIGHT NO. 41-04031.

POINT OF DIVERSION: T09S R31E S31 SWNWNE Within Power County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.19 CFS

PLACE OF USE: Irrigation Within Power County
T09S R31E S31 SENW 9.6
9.6 Acres Total

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



CERTIFICATE OF MAILING

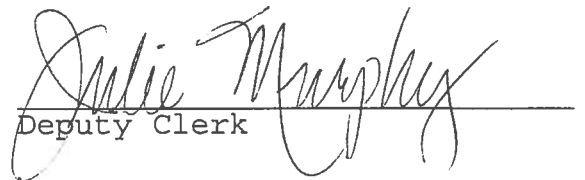
I certify that a true and correct copy of the NOTICE OF COURT'S INTENT TO ISSUE AMENDED PARTIAL DECREE AND NOTICE OF HEARING THEREON was mailed on July 20, 2011, with sufficient first-class postage to the following:

COURTESY COPY
GLEN & IDA COX
531 TETON DRIVE
BURLEY, ID 83318

MERRILL E WALKER
PO BOX 336
ROCKLAND, ID 83271
Phone: 208-548-2343

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

ARTHUR H & BONNIE F NIELSON
ARTHUR H NIELSON
BONNIE F NIELSON
1655 EAST CENTER
POCATELLO, ID 83201
Phone: 208-232-8063

A handwritten signature in cursive script, appearing to read "Julie Murphy", is written over a horizontal line. The signature is fluid and stylized, with the first and last names being clearly legible despite the cursive style.