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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho
NOV 30 2012
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

Case No. 39576

) Subcase No: 00-91013
) (Basin-Wide Issue 13)
)
) ORDER GRANTING STATE OF
) IDAHO'S MOTION TO ALTER OR
) AMEND
)
) REQUEST FOR NOTICES OF
) COMPLETED ADMINISTRATIVE
) PROCEEDING
)

On January 12, 2012, this Court entered an *Order Granting State of Idaho's Second Amended Motion to Including Subordination Language on Water Rights Affected by the Swan Falls Settlement* ("Order Granting State of Idaho's Second Amended Motion") in the above-captioned matter. Among other things, the *Order Granting State of Idaho's Second Amended Motion* directed that the *Partial Decrees* previously entered by this Court in the SRBA for a certain group of water rights be amended to add the following language to the "Other Provisions" section of the respective *Partial Decrees*:

This water right enjoys the benefit of subordination of hydropower water right nos. 02-00100, 02-4000A, 02-4001A, 02-02032A, 02-4000B, 02-4001B, 02-02032B, 02-02036, 02-02056, 02-02065, 02-02064, 02-10135, 02-02060, 02-02059, 02-02001B, 02-02001A, 02-02057, 37-02128, 37-02472, 37-02471, 37-20710, 37-20709, 36-02013, 36-02018 and 36-02026 only so long as the average daily flows as measured at the Murphy Gaging station meet or exceed the minimum stream flows established by state action.

(hereinafter "Subordination Language"). The *Partial Decrees* to be amended were identified and amended to include the Subordination Language pursuant to an *Order of Amended Partial Decrees* entered in subcase nos. 02-7235A, *et al.*, contemporaneously with the *Order Granting State of Idaho's Second Amended Motion*.

On July 24, 2012, the State of Idaho filed a *Motion to Alter or Amend* asserting that the *Partial Decrees* for an additional 17 water rights entered in the SRBA should have been amended to include the Subordination Language in the “Other Provisions” section but erroneously were not. A list of the additional 17 water rights identified by the State is attached as Exhibit 1 to its *Motion to Alter or Amend*.

On August 6, 2012, the Court entered a *Notice of Court’s Intent* setting forth its intent to grant the State of Idaho’s *Motion to Alter or Amend*, and amend the *Partial Decrees* for the additional 17 water rights identified by the State to include the Subordination Language in the “Other Provisions” section. A hearing on the matter was held on November 20, 2012. No party appeared in opposition the *Motion to Alter or Amend* or in opposition to the Court taking its intended action. The Court also finds that notice in the above-captioned matter did go out to the holders of the 17 water right at issue in conjunction with the State of Idaho’s *Second Amended Motion to Including Subordination Language on Water Rights Affected by the Swan Falls Settlement*, notifying those water right holders that their *Partial Decrees* would be amended to include the Subordination Language in the “Other Provisions” section and no objections were filed by those water right holders.

Therefore, with respect to the following 8 water rights identified by the State, the Court finds it appropriate to amend the *Partial Decrees* previously entered in the SRBA for those rights to include the Subordination Language in the “Other Provisions” section: 34-7226C, 34-7226D, 35-8657B, 37-7893A, 47-7435A, 57-7184A, 57-7184B and 61-7399.

However, with respect to the remaining 9 water rights identified by the State (35-14178, 35-14179, 36-8047D, 36-8047E, 36-8047F, 36-16420, 36-16421, 37-20395 and 37-20396) those water right numbers are the result of administrative splits occurring after *Partial Decrees* were issued in the SRBA for the parent rights as follows:

35-14178 and 35-14179 were split from 35-8657A;

36-8047D was split from 36-8047A;

36-8047E and 36-8047F were split from 36-8047C (which was split from 36-8047A);

36-16420 and 36-16421 were split from 36-8238; and

37-20395 and 37-20396 were split from 37-8007.

With respect to the 9 children rights, the Court will request that the Department submit a *Notice of Completed Administrative Proceeding* (“NCAP”) for each of those rights to the Court

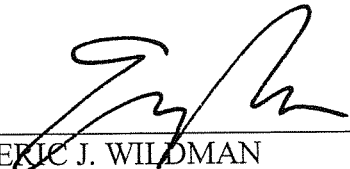
reflecting the administrative splits. Upon receipt, the Court will issue *Partial Decrees* for the children rights containing the Subordination Language and orders disallowing the parent rights.

THEREFORE THE FOLLOWING ARE HEREBY ORDERED:

1. The State of Idaho's *Motion to Alter or Amend* is **hereby granted**.
2. An *Order of Amended Partial Decrees* will be issued contemporaneously herewith to amend the *Partial Decrees* previously entered in the SRBA for water right claims 34-7226C, 34-7226D, 35-8657B, 37-7893A, 47-7435A, 57-7184A, 57-7184B and 61-7399 to include the Subordination Language in the "Other Provisions" section.
3. With respect to the remaining 9 water rights identified by the State (35-14178, 35-14179, 36-8047D, 36-8047E, 36-8047F, 36-16420, 36-16421, 37-20395 and 37-20396), the Court hereby requests that the Department submit a *NCAP* for each of those children rights reflecting the administrative splits that occurred after the *Partial Decrees* for the parent rights were entered in the SRBA **on or before January 31, 2013**.

IT IS SO ORDERED:

DATED: Nov 30, 2012.



ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING STATE OF IDAHO'S MOTION TO ALTER OR AMEND / REQUEST FOR NCAPS was mailed on November 30, 2012, with sufficient first-class postage to the following:

LARRY BETHKE

Represented by:
CANDICE M MC HUGH
101 S CAPITOL BLVD, STE 300
BOISE, ID 83702
Phone: 208-395-0011

STATE OF IDAHO

Represented by:
CHIEF NATURAL RESOURCES DIV
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
PO BOX 44449
BOISE, ID 83711-0449
Phone: 208-334-2400

BASIN AND RANGE RESOURCE
INTERESTED WATER USERS
JEFF & JACKIE HARPER

Represented by:
DANA L HOFSTETTER
608 W FRANKLIN ST
BOISE, ID 83702-5509
Phone: 208-424-7800

SCI PROPERTIES LLC

Represented by:
JAMES P SPECK
120 EAST AVENUE
PO BOX 987
KETCHUM, ID 83340-0987
Phone: 208-726-4421

BLF LAND LLC

BURGESS CANAL
EGIN BENCH CANALS INC
ENTERPRISE IRRIGATION COMPANY
HARRISON CANAL AND IRRIGATION
IDAHO IRRIGATION DISTRICT
LARRY & CAROLYN LEE
L2 LIMITED PARTNERSHIP
NEW SWEDEN IRRIGATION DISTRICT
NORTH FREMONT CANAL SYSTEMS
PEOPLES CANAL & IRRIGATION
PROGRESSIVE IRRIGATION DIST
RALPH L HILLMAN
RANDY J HILLMAN
SNAKE RIVER VALLEY IRRIGATION

Represented by:
JERRY R RIGBY
25 N 2ND E
PO BOX 250
REXBURG, ID 83440-0250
Phone: 208-356-3633

CLEAR SPRINGS FOODS INC
IDAHO POWER COMPANY

Represented by:
JOHN K SIMPSON
1010 W JEFFERSON ST STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

CITY OF POCATELLO

Represented by:
JOSEPHINE P BEEMAN
409 W JEFFERSON ST
BOISE, ID 83702-6049
Phone: 208-331-0950

DEAN R ROGERS INC

Represented by:
LAIRD B. STONE
PO BOX 83
TWIN FALLS, ID 83303-0083
Phone: 208-733-2722

(Certificate of mailing continued)

RICHARD YOUNG
TIMOTHY R EAMES
Represented by:
MATTHEW C DARRINGTON
ROBINSON ANTHON & TRIBE
615 H STREET
PO BOX 396
RUPERT, ID 83350
Phone: 208-436-4717

IDAHO GROUND WATER
Represented by:
RANDALL C BUDGE
201 E CENTER ST STE A2
PO BOX 1391
POCATELLO, ID 83204-1391
Phone: 208-232-6101

B-4 DAIRY LLC
LUIS & SHARON L BETTENCOURT
Represented by:
ROBERT E WILLIAMS
FREDERICKSEN WILLIAMS ET AL
PO BOX 168
JEROME, ID 83338
Phone: 208-324-2303

FARMLAND RESERVE INC
Represented by:
RYAN B FRAZIER
KIRTON & MC CONKIE
60 E SOUTH TEMPLE
PO BOX 45120
SALT LAKE CITY, UT 94145-0120
Phone: 801-328-3600

IDAHO POWER COMPANY
Represented by:
SHELLEY M DAVIS
1010 W JEFFERSON ST STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

FAULKNER LAND & LIVESTOCK CO
NORTH SNAKE GROUND WATER
PERRY & AFTON VAN TASSELL
WRIDE FARMS INC (BART WRIDE)
Represented by:

THOMAS J BUDGE
201 E CENTER ST
PO BOX 1391
POCATELLO, ID 83204-1391
Phone: 208-232-6101

USDI BLM
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

GORDON G & ROSE M KING
PO BOX 36
MURPHY, ID 83650
Phone: 208-834-2051

JASON M & RACHEL L REYNOLDS
PO BOX 613
MOUNTAIN HOME, ID 83647
Phone: 208-580-2840

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

TO WHAT EXTENT IF ANY SHOULD
THE SWAN FALLS AGREEMENT BE
ADDRESSED IN THE SRBA OR BE
MEMORIALIZED IN A DECREE

RICHARD WINBERG
1027 S 2600 W
ABERDEEN, ID 83210
Phone: 208-681-0220

ROBERT A THOMAS
17947 SHORT CUT RD
MURPHY, ID 83650
Phone: 208-834-2638

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(Certificate of mailing continued)

PAUL BEHREND
2706 W 1800 S
ABERDEEN, ID 83210
Phone: 208-221-0341

NICHOLAS BEHREND
2976 W 2000S
ABERDEEN, ID 83210
Phone: 208-221-0342

CHRIS WRIDE
3139 WILLOW
AMERICAN FALLS, ID 83211
Phone: 208-221-8125

BART WRIDE
3166 W 1300 S
ABERDEEN, ID 83210
Phone: 208-397-4634

DUANE W DRAKE FAMILY TRUST
3633 COUNTY RD 106
ELIZABETH, CO 80107
Phone: 303-648-3332

RICHARD SVANCARA
3954 N 750 E
BUHL, ID 83316
Phone: 208-543-8835

BILLY D & MAURINE JACOBSEN
535 BUTTE DR
TWIN FALLS, ID 83301
Phone: 208-733-8034

VIRGINIA CANAVERO
58409 MANSFORD AVE
ROGERSON, ID 83302
Phone: 208-857-2252

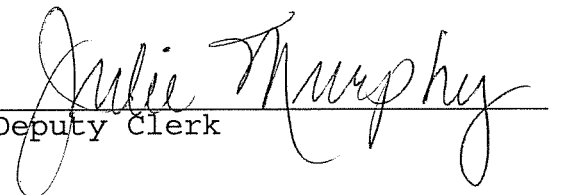
HAROLD A & MARLENE FUNK
865 FILLMORE
AMERICAN FALLS, ID 83211
Phone: 208-226-7735

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FILE COPY FOR 60019

Deputy Clerk

A handwritten signature in cursive script, reading "Julie Murphy", is written over a horizontal line. The signature is in dark ink and is positioned to the right of the printed text "Deputy Clerk".