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FEB 14 2013

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
FEB 13 2013	
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

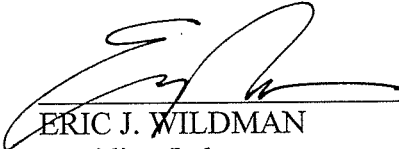
) Water Right Nos.: 86-07318 & 86-07345
)
) NOTICE OF COURT'S INTENT TO
) ISSUE AMENDED PARTIAL DECREES,
) AND NOTICE OF HEARING THEREON
)
)
)
)
)
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)

The above-captioned water rights were claimed based on a permit prior to the issuance of a license. On August 18, 2005, *Partial Decrees* were entered for the above-captioned water rights. The Director of the Idaho Department of Water Resources ("Department") subsequently issued a license for each water right. On February 7, 2013, the Department filed a *Notice of Completed Administrative Proceeding* in the above-captioned subcases informing the Court of the issuance of the license, as well as *Amended Director's Reports* reflecting the elements of the above-captioned water right claims as licensed. The licenses supercede the *Partial Decrees*. Therefore, it is the intent of the Court to issue *Amended Partial Decrees* in the above-captioned matters consistent with the *Amended Director's Reports* pursuant to Idaho Rule of Civil Procedure 60(a). Copies of the proposed *Amended Partial Decrees* are attached as Exhibits A and B.

Therefore, IT IS ORDERED that a hearing will be held on this matter on **Tuesday, May 21, 2013, 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. **However, no cell phones or speaker phones will be permitted as they interfere with our sound system making the proceeding difficult to accurately record.**

Dated: February 13, 2013


ERIC J. WILDMAN
Presiding Judge
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 86-07318

NAME AND ADDRESS: STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE, ID 83720-0098

SOURCE: CLEARWATER RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 5750.00 CFS

PRIORITY DATE: 07/30/1992

Use of water under this right shall recognize and allow the continued beneficial diversion of water under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file or issued by the director under the provisions of Chapter 2, Title 42, Idaho Code, with a priority of water right date earlier than the date of priority of this right.

POINT OF DIVERSION: T36N R03W S07 LOT 13 (NWSW) (Instream Ending Point) Within Nez Perce County
T37N R01E S33 LOT 8 (SESE) (Instream Beginning Point) Within Clearwater County

The reach of this minimum stream flow begins at the confluence of the South Fork Clearwater and the Middle Fork Clearwater River in Lot 7 (SW1/4NE1/4), Section 5, T32N, R4E, B.M. and extends downstream approximately 34 miles to the confluence with North Fork Clearwater River in Lot 8 (SE1/4SE1/4), Section 33, T37N, R1E, B.M.

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Minimum Stream Flow	11-01 TO 07-31	5750.00 CFS
	Minimum Stream Flow	08-01 TO 10-31	4350.00 CFS

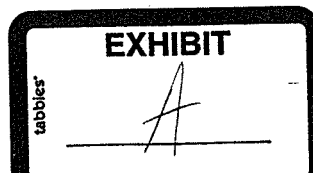
Use of water under this right shall be non-consumptive.

PLACE OF USE: The place of use is within the stream reach between the beginning instream point and the ending instream point described for the points of diversion for this right.

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

The approved minimum stream flow shall be subordinate to future domestic, stockwater, municipal, commercial, and industrial development from the Clearwater River and its tributaries, including ground water, for use within the Clearwater River Basin where the domestic and stockwater uses are within the limitations of Section 42-111, Idaho Code.

The Idaho Water Resource Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to this water right. The petition must set forth any significant change in circumstances and evidence of the public interest supporting the proposed amendment. The Director will notify the general public and specific persons or notify interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the water right should be amended in the



OTHER PROVISIONS (continued)

public interest. The burden of proof at the hearing shall be upon the person or parties seeking the amendment to establish that the amendment of this water right would be in the public interest.

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.

DRAFT

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 86-07345

NAME AND ADDRESS: STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE, ID 83720-0098

SOURCE: CLEARWATER RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 5910.00 CFS

PRIORITY DATE: 07/30/1992

Use of water under this right shall recognize and allow the continued beneficial diversion of water under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file or issued by the director under the provisions of Chapter 2, Title 42, Idaho Code, with a priority of water right date earlier than the date of priority of this right.

POINT OF DIVERSION: T36N R03W S07 LOT 13 (NWSW) (Instream Beginning Point) Within Nez Perce County
R05W S32 LOT 6 (SWNE) (Instream Ending Point)
LOT 1 (SWNE) (Instream Ending Point)

The reach of this minimum stream flow begins at the confluence of the South Fork Clearwater and the Middle Fork Clearwater River in Lot 7 (SW1/4NE1/4), Section 5, T32N, R4E, B.M. and extends downstream approximately 34 miles to the confluence with North Fork Clearwater River in Lot 8 (SE1/4SE1/4), Section 33, T37N, R1E, B.M.

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Minimum Stream Flow	11-01 TO 07-31	5910.00 CFS
	Minimum Stream Flow	08-01 TO 10-31	4498.00 CFS

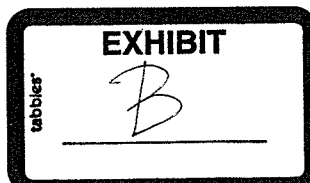
Use of water under this right shall be non-consumptive.

PLACE OF USE: The place of use is within the stream reach between the beginning instream point and the ending instream point described for the points of diversion for this right.

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

The approved minimum stream flow shall be subordinate to future domestic, stockwater, municipal, commercial, and industrial development from the Clearwater River and its tributaries, including ground water, for use within the Clearwater River Basin where the domestic and stockwater uses are within the limitations of Section 42-111, Idaho Code.

The Idaho Water Resource Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to this water right. The petition must set forth any significant change in circumstances and evidence of the public interest supporting the proposed amendment. The Director will notify the general public and specific persons or notify interested parties of the proposed change, and conduct a hearing for the purpose of



SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

determining whether the water right should be amended in the public interest. The burden of proof at the hearing shall be upon the person or parties seeking the amendment to establish that the amendment of this water right would be in the public interest.

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.

DRAFT

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 February 13, 2013, with sufficient first-class postage to the following:

STATE OF IDAHO

Represented by:

STATE OF IDAHO

PO BOX 44449

BOISE, ID 83711-4449

Phone: 208-334-2400

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

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".