

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

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

SEP 17 2002

In Re SRBA
Case No. 39576

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

Water Right 36-15681

By

Clerk

Deputy Clerk

NAME AND ADDRESS: BIG SPRINGS WATER USERS ASSN
2727 SOUTH 1050 EAST
HAGERMAN, ID 83332

SOURCE: BIG SPRINGS TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 6.00 CFS

USE OF THIS RIGHT WITH RIGHT NO. 36-22 IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 12.9 CFS.

PRIORITY DATE: 09/30/1987

THIS WATER RIGHT IS SUBORDINATE TO ALL WATER RIGHTS WITH A
PRIORITY DATE EARLIER THAN APRIL 12, 1994, THAT ARE NOT DECREED
AS ENLARGEMENTS PURSUANT TO SECTION 42-1426, IDAHO CODE. AS
BETWEEN WATER RIGHTS DECREED AS ENLARGEMENTS PURSUANT TO SECTION
42-1426, IDAHO CODE, THE EARLIER PRIORITY RIGHT IS THE SUPERIOR
RIGHT.

POINT OF DIVERSION: T07S R14E S18 LOT 3 (SENWSW) Within Gooding County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Fish Propagation	01-01 TO 12-31	6.00 CFS

PLACE OF USE: Fish Propagation Within Gooding County
T07S R13E S24 SENW

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

THIS RIGHT IS BASED UPON AN ENLARGEMENT OF RIGHT NO. 36-00022
PURSUANT TO SECTION 42-1426, IDAHO CODE.

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.

Roger Burdick

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

RECEIVED

SEP 18 2002

Department of Water Resources

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

Adjudication Recommendation 36-15681 V1

Owner Type **Name and Address**
Current Owner BIG SPRING WATER USERS ASSN
2727 S 1050 E
HAGERMAN, ID 83332
(208) 837-4806

Priority Date: 9/30/1987

Basis: Beneficial Use

Status: Closed

Source
BIG SPRINGS

Tributary
BILLINGSLEY CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
FISH PROPAGATION	01/01	12/31	6.000 CFS	
	<u>Total Diversion</u>		6.000 CFS	

Source and Point(s) of Diversion

BIG SPRINGS L3(SENWSW) Sec. 18, Twp 07S, Rge 14E, GOODING County

Place Of Use

FISH PROPAGATION within GOODING County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	13E	24								X									

Conditions of Approval:

1. C11 Priority Date THIS WATER RIGHT IS SUBORDINATE TO ALL WATER RIGHTS WITH A PRIORITY DATE EARLIER THAN APRIL 12, 1994, THAT ARE NOT DECREED AS ENLARGEMENTS PURSUANT TO SECTION 42-1426, IDAHO CODE. AS BETWEEN WATER RIGHTS DECREED AS ENLARGEMENTS PURSUANT TO SECTION 42-1426, IDAHO CODE, THE EARLIER PRIORITY RIGHT IS THE SUPERIOR RIGHT.
2. K02 General THIS RIGHT IS BASED UPON AN ENLARGEMENT OF RIGHT NO. 36-00022 PURSUANT TO SECTION 42-1426, IDAHO CODE.
3. C18 General 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.
4. E51 Quantity USE OF THIS RIGHT WITH RIGHT NO. 36-22 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 12.9 CFS.
5. K09 Explanatory THIS RIGHT IS AN ENLARGEMENT FOR FISH PROPAGATION USE.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

Comments:

1. rbrown 7/18/2001 Recommendation
This version is the recommendation based on the claim and the draft SF5
2. rbrown 7/24/2001 corrected POU
POU was corrected to match Mr. Lemmons tax notice

Dates and Other Information

Enlargement Statute Priority Date: 4/12/1994
Civil Case Number: 39576
Judicial District: FIFTH
Mitigation Plan: False

Combined Use Limits

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
12.900		
36-22	36-15681	

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Priority Date	7/18/2001	rbrown			Closed
Summary	7/18/2001		7/18/2001	rbrown	Closed
POD	7/18/2001	rbrown			Closed
Source	7/18/2001	rbrown			Closed
Use	7/18/2001	rbrown			Closed
Season	7/18/2001	rbrown			Closed
Quantity	7/18/2001	rbrown			Closed
Summary	2/12/2002	rbrown	2/12/2002	rbrown	Closed

Verification Log

<u>Element</u>	<u>Date</u>	<u>User</u>	<u>Log Text</u>
Priority Date	7/18/2001	rbrown	1. (NO) There has not been a later court decree of the water right(s) from the water source. 4. (YES) The basis of claim is beneficial use. 4b. (YES) The priority date was claimed after the date a permit was required for the source and water use. 9. (YES) The claim was for an expansion or enlargement under 42-1416B or 42-1426. 10. (YES) The claim file contains sufficient evidence of priority date. 12. (YES) The claim is recommended. 13. (YES) The claim is coded correctly. 14. (NO) Priority remark was not required. 15. (NO) Priority condition was not required.
Summary	7/18/2001	rbrown	1. (YES) The basis of the claim is beneficial use. 2. (YES) All the water being used for all the purposes is being claimed and to the extent it was claimed. 5. (YES) General remark was required. 6. (NO) Explanatory remark was not required. 7. (NO) Additional condition was not required. 8. (YES) Wanted to view the recommended right. 9. (NO) This is not a split right. 10. (NO) This is not a combined right.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

11. (NO) Documents were not linked or attached to this file.
12. (YES) Set the verification date.

POD	7/18/2001	rbrown	1. (YES) The basis is beneficial use.
Source	7/18/2001	rbrown	1. (YES) The basis is beneficial use.
Use	7/18/2001	rbrown	1. (YES) The basis of claim is beneficial use.
Season	7/18/2001	rbrown	1. (YES) The basis of claim is beneficial use.
Quantity	7/18/2001	rbrown	1. (YES) The basis of claim is beneficial use.
POD	2/12/2002	rbrown	Edited point location
Summary	2/12/2002	rbrown	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (Yes) 5. Is an additional remark and/or condition required? (Yes) 6. Would you like to view the recommended right? (No) 7. Is this a split or combined right? (No) 8. Do you have documents you would like to attach or link to the file? (Yes) 9. Would you like to set the verification date?

SubCase:
N/A

Water Supply Bank:
N/A

18851-92

07/24/2001

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

RIGHT NUMBER: 36-15681

NAME AND ADDRESS: BIG SPRINGS WATER USERS ASSN
2727 S 1050 E
HAGERMAN, ID 83332

SOURCE: BIG SPRINGS TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 6 CFS

USE OF THIS RIGHT WITH RIGHT NO. 36-22 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 12.9 CFS.

NBS
RB

PRIORITY DATE: 09/30/1987

THIS WATER RIGHT IS SUBORDINATE TO ALL WATER
RIGHTS WITH A PRIORITY DATE EARLIER THAN APRIL 12,
1994, THAT ARE NOT DECREED AS ENLARGEMENTS
PURSUANT TO SECTION 42-1426, IDAHO CODE. AS BETWEEN
WATER RIGHTS DECREED AS ENLARGEMENTS PURSUANT TO
SECTION 42-1426, IDAHO CODE, THE EARLIER PRIORITY
RIGHT IS THE SUPERIOR RIGHT.

POINT OF DIVERSION: T07S R14E S18 LOT 3 SENWNW Within GOODING County

PURPOSE AND PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
FISH PROPAGATION	01-01 12-31	6.00 CFS

PLACE OF USE:

FISH PROPAGATION Within GOODING County
T07S R13E S24 SENW T07S R13E S24 NENW

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

36-15681

sent by: IDAHO DEPT. OF WATER RESOURCES, 200010400, 002101 07 10:00AM, Page 170

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.

NBS RAY

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

RECEIVED

OCT 05 2001

Department of Water Resources
Southern Region

RECEIVED

SEP 24 2001

Department of Water Resources

2001 SEP 21 PM 4:11

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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 36-15681

) ORDER GRANTING MOTION TO FILE
) LATE NOTICE OF CLAIM AND ORDER
) GRANTING MOTION TO SUBSTITUTE
) NOTICE OF CLAIM

On June 28, 2001, Big Springs Water Users Association, through its counsel of record Patrick Brown, filed a *Motion to File Late Notice of Claim*. On August 7, 2001, Big Springs Water Users Association filed a *Motion to Substitute Notice of Claim*. Hearing was held on the *Motions* September 18, 2001. This *Motions* complied with all procedural requirements under *SRBA Administrative Order 1*, and no objections were made to the substitute Notice of Claim.

THEREFORE, IT IS ORDERED, that the *Motion to File a Late Notice of Claim* for water right 36-15681 is **granted**.

IT IS FURTHER ORDERED that the *Motion to Substitute Notice of Claim* is **granted**. The substituted Notice of Claim, dated July 24, 2001, as well as any attached filing fees, and a copy of this **Order** will be forwarded to the Idaho Department of Water Resources for further action.

IT IS SO ORDERED.

Dated September 18, 2001.



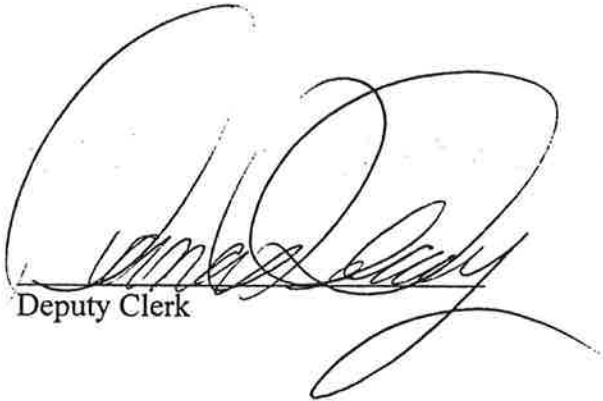
ROGER S. BURDICK
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the **ORDER GRANTING MOTION TO FILE LATE NOTICE OF CLAIM** was mailed on September 21, 2001, with sufficient first-class postage to the following:

Patrick D. Brown
109 South Adams
Jerome, ID 83338

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098



Deputy Clerk

2001 AUG -7 PM 2: 03

Big Springs Water Users Assn.

Patrick D. Brown, ISB #4413
Patrick D. Brown, P.C.
109 South Adams
Jerome, ID 83338
Telephone: (208) 644-1967
Fax: (208) 644-1970

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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

) Subcase: 36-15681
)
)

Case No. 39576

) MOTION TO SUBSTITUTE
) NOTICE OF CLAIM
)

COMES NOW, Patrick D. Brown, P.C. and hereby moves this Court to substitute the attached "Notice of Claim" for the one attached to the Motion to File Late Notice of Claim filed on June 28, 2001.

The basis for this motion is that the place of use may be in both areas of Section 24. It may cross over the line between the NENW and SENW of Section 24, and current data is incomplete. Both places of use are listed on the substituted Notice of Claim issued July 24, 2001. This will avoid potentially having to amend the claim later, when better GIS information is obtained.

Oral argument on this motion is not requested.

Dated this 3 day of August, 2001

A handwritten signature in black ink, appearing to be "Patrick D. Brown", written over a horizontal line.

PATRICK D. BROWN
Attorney at Law