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September 7, 2016

RECEIVED

SEP 09 2016

DEPT OF WATER RESOURCES
SOUTHERN REGION

Idaho Department of Water Resources
650 Addison Ave. W., Suite 500
Twin Falls, ID 83301-5858

RE: Albion 12 Investments – Transfer No. 7243
Our File No. 13744.150010

Gentlemen:

Enclosed, for your information, is the Stipulation of Facts for Purposes of Summary Judgment in regards to the above-entitled matter.

Should you have any questions please contact me.

Very truly yours,

PARSONS, SMITH, STONE, LOVELAND
& SHIRLEY, LLP

Mailed without signature to avoid delay

William A. Parsons

V/AP/sw
Enc.

SEP 09 2016

DEPT OF WATER RESOURCES
SOUTHERN REGION

CHARLES L. HONSINGER (ISB #5240)
HONSINGER LAW, PLLC
P.O. Box 517
Boise, Idaho 83701
Telephone: (208) 863-6106
Facsimile: (208)908-6085

Attorney for Protestant Earl Warthen

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF TRANSFER	)	
NO. 79943	)	STIPULATION OF FACTS FOR
	)	PURPOSES OF SUMMARY JUDGMENT
IN THE NAME OF	)	
ALBION 12 INVESTMENTS, LLC	)	
_____	)	

COMES NOW, Protestant Earl Warthen by and through his attorney Charles L. Honsinger of the firm of Honsinger Law, PLLC, together with Applicant Albion 12 Investments, LLC by and through its attorney William Parsons of the firm of Parsons Smith and Stone, and, to assist the parties in resolving the issue of whether the transfer proposed in this matter constitutes an enlargement through the use of summary judgment, hereby stipulate to the following facts:

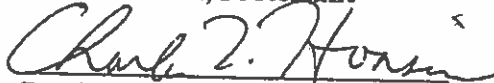
1. Water right no. 45-7090, the parent right for water right no. 45-14284, was licensed by the Idaho Department of Water Resources on April 4, 1983. The license was based upon a Field Report completed by IDWR's Gary Funderburg on September 26, 1979.
2. Water right no. 45-14284 was decreed in the Snake River Basin Adjudication on April 7, 2010 pursuant to the attached Order of Partial Decree. The basis of the

decree was approved transfer no. 75528 issued by the Idaho Department of Water Resources on June 24, 2009.

3. The evidence establishes that water right no. 45-14284 has not been used for any purpose since the end of the 1983 irrigation season, but was previously used for irrigation.

Dated this 6th day of September, 2016

Earl Warthen, Protestant



By: Charles L. Honsinger

Attorney for Earl Warthen

Dated this 7 day of September, 2016

Albion 12 Investments, LLC, Applicant



By: William Parsons

Attorney for Albion 12 Investments, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7 day of July, 2016, the above and foregoing document was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

Albion 12 Investments, LLC
7595 E. McDonald Dr., Ste. 130
Scottsdale, AZ 85250

H. Lee Jolley
P.O. Box 21
Albion, ID 83311

Christopher J. King
P.O. Box 54
940 S. Hwy. 77
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76 S. Hwy. 77
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P.O. Box 73
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P.O. Box 482
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Honsinger Law, PLLC
P.O. Box 517
Boise, ID 83701



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APR 09 2010

DEPARTMENT OF
WATER RESOURCES

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

APR - 7 2010

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

By

Clerk

Deputy Clerk

In Re SRBA

Case No. 39576

)
) Water Right: 45-14284
) (Montgomery)

)
) ORDER OF PARTIAL DECREE
)
)

On September 7, 2004, the Idaho Department of Water Resources filed its *Director's Report for Basin 45, Reporting Area 10, for Irrigation and Other Water Rights*, which included recommendation for water right 45-07090. No objections were filed and the time period for filing objections has expired.

On February 18, 2010, the Idaho Department of Water Resources filed a *Notice of Completed Administrative and Amended Director's Report* notifying the Court that water right 45-07090 had been split into water rights 45-14249, 45-14284 and 45-14285. No objections were filed to the *Amended Director's Report* and the time period for filing objections has expired.

Therefore, IT IS ORDERED that the above-captioned water right be decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED

April 7, 2010


ERIC J. WILDMAN

Presiding Judge

Snake River Basin Adjudication

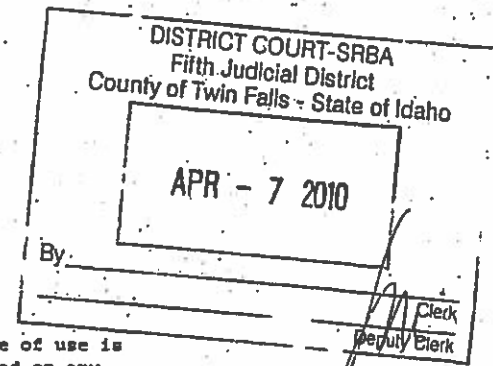
ORDER OF PARTIAL DECREE

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)

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

Water Right 45-14284



NAMR AND ADDRESS:

GEORGE A MONTGOMERY
GWEN MONTGOMERY
937 S 900 E
ALBION, ID 83311

SOURCE:

GROUND WATER

If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.

Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.

The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.

QUANTITY:

1.321 CFS
268.00 AFY

Rights 45-14288, 45-14284, 45-10912 and 45-14286 when combined shall not exceed the irrigation of 67.0 acres.
Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands herein.
Prior to the diversion and use of water under Transfer approval 75528, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.

PRIORITY DATE:

02/26/1972

POINT OF DIVERSION:

T12S R24E S12

NWSEW Within Cassia County
SWSNW

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
Irrigation

PERIOD OF USE
03-15 TO 11-15

QUANTITY
1.31 CFS
268.00 AFY

PLACE OF USE:

Irrigation

T12S R24E S12

NWNE 28.0
SENE 28.5

Within Cassia County
NENE 10.5

67.0 Acres Total

PLACE OF USE (continued)

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

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

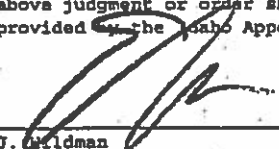
The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 140.

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. Waldman
Presiding Judge of the
Snake River Basin Adjudication

2010 APR 07 PM 02:00
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)
_____)

CERTIFICATE OF MAILING

Water Right(s) : 45-14284

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 45-14284 was mailed
on April 07, 2010, with sufficient first-class postage prepaid
to the following:

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

GEORGE A MONTGOMERY
GWEN MONTGOMERY
937 S 900 E
ALBION, ID 83311

JULIE MURPHY
Chief Deputy Clerk

CERTIFICATE OF MAILING

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04/07/10