

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE

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

RECEIVED

JUL 03 2012

In Re SRBA

Case No. 39576

DEPARTMENT OF
WATER RESOURCES

Subcase Nos.: 37-02676 & 37-07620

(Kevicki/Murphy/Olsen/Sweat)

By

DISTRICT COURT - SRBA

Fifth Judicial District
County of Twin Falls - State of Idaho

JUN 29 2012

Clerk

Deputy Clerk

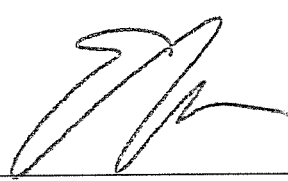
ORDER SETTING ASIDE AND
AMENDING PARTIAL DECREES

On May 9, 2003, **Partial Decrees** were issued for water rights 37-02676 and 37-07620. On May 9, 2011, the claimants, Bonnie C. Kevicki, Barbara L. Murphy, Dean E. Olsen, Joel E. Olsen and Milford D. Sweat, by and through counsel, Fritz X. Haemmerle, filed a *Motion to Set Aside Partial Decrees and to Amend Claims* for the above-captioned water rights. The matter was referred to the Special Master for further proceedings. On May 10, 2012, the Special Master issued a **Special Master's Report and Recommendation** recommending that the **Partial Decrees** be set aside and **Amended Partial Decrees** be issued. No challenges were filed to the **Special Master's Report and Recommendation** and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and **SRBA Administrative Order 1**, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the **Special Master's Report and Recommendation** and wholly adopts them as its own.

Therefore, IT IS ORDERED that the **Partial Decrees** for the above-captioned water rights are hereby set aside and amended as set forth in the attached **Amended Partial Decrees Pursuant to I.R.C.P. 54(b)**. The previously issued **Partial Decrees** are replaced and superseded thereby.

DATED: June 29, 2012


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)
)
Case No. 39576)
_____)

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

Water Right 37-02676

NAME AND ADDRESS:

DEAN E OLSEN
MICHAEL L OLSEN
BOX 144
CAREY, ID 83320

BARBARA L MURPHY
BOX 215
CAREY, ID 83320

BONNIE C KEVICKI
43559 W SPARKS CT
MARICOPA, AZ 85138

JOEL E OLSEN
568 BAKER ST
TWIN FALLS, ID 83301

MILFORD D SWEAT
656 FAIRBANKS ST APT A-11
FAIRBANKS, AK 99709

SOURCE:

GROUND WATER

QUANTITY:

1.85 CFS
277.20 AFY

PRIORITY DATE:

12/11/1961

POINT OF DIVERSION:

T01S R22E S03 NESESE Within Blaine County
NESESE

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE
Irrigation

PERIOD OF USE
04-01 TO 11-01

QUANTITY
1.85 CFS
277.20 AFY

PLACE OF USE:

Irrigation

T01S R22E S03
S10

SWSE 26.0
NWNE 33.0
NENW 36.0
NESE 32.0
SWSE 34.0
NWNE 31.0
NENW 34.0
SENW 40.0
NWSE 19.0

Within Blaine County

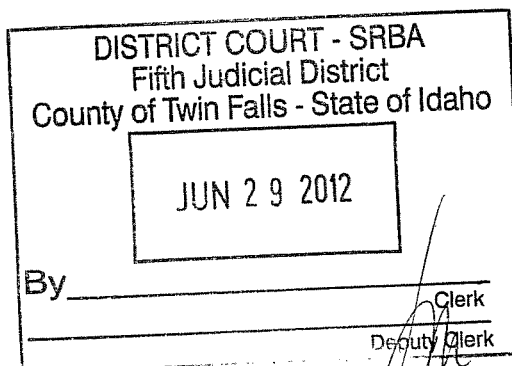
SESE 19.0
SENE 15.0
SESW 19.0
NWSE 9.4
SWNE 24.0
NWNW 39.0
NESW 40.0

450.4 Acres Total

Use of this right with Right No. 37-7620 is limited to the
irrigation of a combined total of 450.4 acres in a single
irrigation season.

The rights listed below are limited to the irrigation of a
combined total of 475.9 acres in a single irrigation season.
Combined Right Nos. 37-732, 37-743E, 37-2676, 37-2777, 37-7620 &
37-22598.

This right is limited to the irrigation of 92.4 acres within the
place of use described above in a single irrigation season.

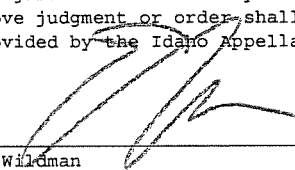


OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

AMENDED

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

Water Right 37-07620

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

JUN 29 2012

By _____ Clerk

Deputy Clerk

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PLACE OF USE (continued)

450.4 Acres Total		
Irrigation Storage		Within Blaine County
T01S R22E S10	SENW	SESW
Irrigation from Storage		Within Blaine County
T01S R22E S03	SWSE 26.0	SESE 19.0
S10	NWNE 33.0	SENE 15.0
	NENW 36.0	SESW 19.0
	NESE 32.0	NWSE 9.4
	SWSE 34.0	
S15	NWNE 31.0	SWNE 24.0
	NENW 34.0	NWNW 39.0
	SENW 40.0	NESW 40.0
	NWSE 19.0	
450.4 Acres Total		

Use of this right with Right No. 37-2676 is limited to the irrigation of a combined total of 450.4 acres in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 475.9 acres in a single irrigation season. Combined Right Nos. 37-732, 37-743B, 37-2676, 37-2777, 37-7620 & 37-22598.

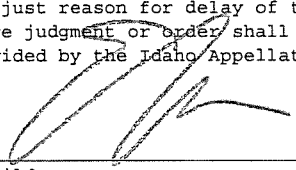
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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.

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 ORDER SETTING
ASIDE AND AMENDING PARTIAL DECREES was mailed on June 29, 2012,
with sufficient first-class postage to the following:

STATE OF IDAHO

Represented by:
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DEPUTY ATTORNEY GENERAL
PO BOX 44449
BOISE, ID 83711-4449
Phone: 208-334-2400

~~MILFORD D SWEAT
656 FAIRBANKS ST APT A-11
FAIRBANKS, AK 99709~~

BARBARA L MURPHY
BONNIE C KEVICKI
DEAN E OLSEN
JOEL E OLSEN
MICHAEL L OLSEN
MILFORD D SWEAT

Represented by:
HAEMMERLE, FRITZ X.
PO BOX 1800
HAILEY, ID 83333
Phone: 208-578-0520

USDI BLM

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

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CAREY, ID 83320~~

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~~DIRECTOR OF IDWR
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~~JOEL E OLSEN
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TWIN FALLS, ID 83301~~

ORDER

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Deputy Clerk

Julie Murphy