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MAR 30 2012

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho
MAR 29 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

) Subcase No. 36-00029B

Case No. 39576

) ORDER SETTING ASIDE PARTIAL
) DECREE

) ORDER OF SECOND AMENDED
) PARTIAL DECREE

A *Partial Decree* was issued for the above-captioned water right on February 7, 2001. On June 18, 2002, an *Amended Partial Decree* was issued for the above-captioned water right. On November 7, 2011, Danny T. Peterson filed a *Motion to Set Aside the Amended Partial Decree*. Also on that date, an *Order of Reference* was issued appointing the Special Master to preside over the *Motion* and issue a recommendation. On February 1, 2012, the Special Master issued a *Special Master's Report and Recommendation*, recommending that the *Motion to Set Aside* be granted, and that a *Second Amended Partial Decree* be issued with the elements set forth in the attached *2nd Amended Partial Decree*. No challenges were filed to the *Special Master's Report and Recommendation*, and the time for filing challenges has 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 *Amended Partial Decree* previously entered for the above-captioned water right is **hereby set aside**.

IT IS FURTHER ORDERED that the above-captioned water right be **decreed** with the elements set forth in the attached *2nd Amended Partial Decree Pursuant to I.R.C.P.*

54(b).

Dated March 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

2nd **AMENDED**

In Re SRBA)
)
Case No. 39576)
_____)

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

Water Right 36-00029B

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho
MAR 29 2012
By _____ Clerk Deputy Clerk

NAME AND ADDRESS: DANNY T PETERSEN
PO BOX 192
HAGERMAN, ID 83332

EVELYN M PETERSEN
PO BOX 192
WENDELL, ID 83332

BRIAN PETERSON
PO BOX 614
WENDELL, ID 83355

SOURCE: THREE SPRINGS TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 1.00 CFS

THE PORTION OF THIS RIGHT IN EXCESS OF 0.70 CFS IS
SUBORDINATED TO ALL GROUND WATER AND SURFACE WATER RIGHTS WITH
PRIORITY DATES OF DECEMBER 31, 1999 OR EARLIER.

PRIORITY DATE: 02/17/1896

POINT OF DIVERSION: T07S R14E S30 SESENW Within Gooding County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic	01-01 TO 12-31	0.04 CFS
	Irrigation	02-15 TO 11-30	1.00 CFS

THE IRRIGATION USE UNDER THIS RIGHT IN EXCESS OF 0.70 CFS IS
SUBORDINATED TO ALL WATER RIGHTS WITH PRIORITY DATES OF
DECEMBER 31, 1999 OR EARLIER.

PLACE OF USE: Irrigation Within Gooding County
T07S R13E S24 SESW 35.0
35.0 Acres Total

Domestic Within Gooding County
T07S R13E S24 SESW

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

THE SUBORDINATED PORTION OF THIS WATER RIGHT SHALL NOT BE
ASSERTED, DELIVERED, HONORED, USED, ENFORCED, EFFECTIVE OR
OTHERWISE RECOGNIZED AS VALID IF IT WOULD CAUSE OR REQUIRE EITHER
DIRECTLY OR INDIRECTLY, CURTAILMENT OF, INJURY TO, OR MITIGATION
FROM ANY WATER RIGHTS WITH PRIORITY DATES EARLIER THAN
DECEMBER 31, 1999. THIS SUBORDINATION SHALL RUN WITH AND BE
PERPETUAL SERVITUDES UPON THIS WATER RIGHT AND THE ASSOCIATED
LANDS, INCLUDING ANY NEW LANDS TO WHICH ALL OR ANY PORTIONS OF
THIS WATER RIGHT IS TRANSFERRED.

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

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

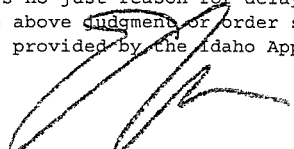
SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

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 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 PARTIAL DECREE / ORDER OF SECOND AMENDED PARTIAL DECREE
was mailed on March 29, 2012, with sufficient first-class postage
to the following:

STATE OF IDAHO

Represented by:
CLIVE STRONG
NATURAL RESOURCES
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720-0010
Phone: 208-334-2400

DANNY & BRIAN PETERSEN
EVELYN PETERSEN
P O BOX 614
WENDELL, ID 83355

~~DANNY & EVELYN PETERSON~~
~~PO BOX 132~~
~~WENDEN, AZ 85357~~

DANNY T PETERSEN
DANNY T PETERSON
PO BOX 192
HAGERMAN, ID 83332
Phone: 208-539-3579

EVELYN M PETERSEN
PO BOX 192
WENDELL, ID 83332

~~BRIAN PETERSON~~
~~PO BOX 614~~
~~WENDELL, ID 83355~~

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

NORTH SNAKE GROUND WATER DIST
2092 EAST 3600 SOUTH
WENDELL, ID 83355
Phone: 208-536-6553