

2002 JUN 18 PM 2:05

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	)	Water Right 34-446D
	)	
	)	ORDER AMENDING IRRIGATION PERIOD OF USE
	)	ELEMENT IN PARTIAL DECREE and
Case No. 39576	)	INCORPORATING INTO PARTIAL DECREES AN
	)	EXPRESS STATEMENT REGARDING GENERAL
_____	)	PROVISIONS, <i>NUNC PRO TUNC</i>

A *Partial Decree* was entered for the above-captioned irrigation water right on February 5, 1998. The period of use element was decreed as "irrigation season." In *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998), the Idaho Supreme Court remanded with the directive to include specific dates for the period of use element. Following remand, on June 24, 1999, IDWR filed a *Supplemental Director's Report, Reporting Area 1, IDWR Basin 34, Regarding Revision of Period of Use (For Irrigation Water Uses) and Conjunctive Management General Provisions*, which included an irrigation period of use recommendation for this water right. No objections were filed to this *Supplemental Director's Report*.

THEREFORE, IT IS ORDERED that the period of use element for the irrigation portion of the above-captioned water right is hereby amended and decreed as:

PERIOD OF USE: 05-01 to 10-15

The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04-20 and an ending date of 10-31 at the discretion of the Director of the Idaho Department of Water Resources.

IT IS FURTHER ORDERED that the *Partial Decree* for the above-captioned water right is hereby amended and decreed to contain the following:

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 a point in time no later than the entry of a final unified decree. I.C. section 42-1412(6).

This order is being entered *nunc pro tunc* as of the date the ***Partial Decree*** was issued and is not intended to modify subsequent administrative changes for the water right, if any, which occurred following entry of the ***Partial Decree***.

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.

Dated June 18, 2002.



ROGER BURDICK
Presiding Judge
Snake River Basin Adjudication

Important Information About Your Water Right

June 18, 2002

Allan Banta
Roberta Banta
PO Box 491
Arco, ID 83213

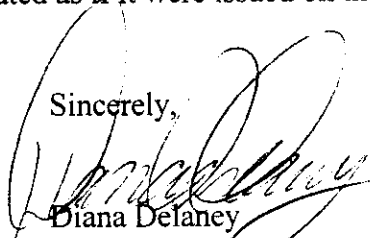
Dear Water Right Claimant(s):

Attached to this letter is a copy of an **Order Amending Irrigation Period of Use Element in Partial Decree, Nunc Pro Tunc** (hereinafter "**Order**") for water right number 34-446D. According to Idaho Department of Water Resources (IDWR) records, you are the current owner of this water right. If you are not the current owner, please contact IDWR immediately at:

Idaho Department of Water Resources
1301 North Orchard
Boise, ID 83706
800-451-4129

The purpose of the **Order** is to set forth beginning and ending dates for the irrigation period of use for this water right. As stated in the face of the **Order**, this action was necessary following the decision of the Idaho Supreme Court in *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998). This **Order** also incorporates into the **Partial Decree** an express statement that the **Partial Decree** is subject to such general provisions necessary for the definition or for the efficient administration of the water right. This express statement is necessary to comply with the requirements of Idaho Code section 42-1412(6). This **Order**, in combination with the **Partial Decree** that was issued for this water right on February 5, 1998, sets forth all of the elements of your water right. The Snake River Basin Adjudication (SRBA) Court suggests that you keep this document in a safe location together with a copy of the **Partial Decree** to show evidence of this water right. The original of this **Order** and the original of the **Partial Decree** for this water right are on file with SRBA Court. If you do not have a copy of the original **Partial Decree**, one can be obtained by contacting the SRBA Court at (208) 736-3011. Please note that the **Order** is entered **Nunc Pro Tunc**, meaning that the **Order** will be treated as if it were issued on the same date that the **Partial Decree** was originally issued.

Sincerely,



Diana Delaney
Case Administrator

25

RECEIVED

FEB 10 1998

Department of Water Resources
Adjudication Bureau

1998 FEB -5 PM 4:44

DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO

CLERK OF COURT

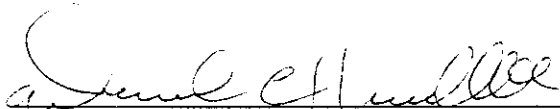
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	ORDER OF PARTIAL DECREE
	)	
Case No. 39576	)	For Water Right 34-00446D
_____	)	

On October 20, 1997, an *Amended Director's Report* was filed for water right 34-00446A recommending that it be split and decreed as water rights 34-00446C and 34-00446D.

Therefore, IT IS ORDERED that water right 34-00446D is hereby **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED February 5, 1998.



DANIEL C. HURLBUTT, JR.
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

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 34-004460

NAME & ADDRESS: ALLAN BANTA
ROBERTA BANTA
PO BOX 491
ARCO ID 83213

SOURCE: BIG LOST RIVER TRIBUTARY: SINKS

QUANTITY: 0.33 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 3.70 CFS. COMBINED RIGHT NOS.:
34-00172G, 34-00313B, 34-00503E AND 34-07226D.

PRIORITY DATE: 09/01/1899

POINT OF DIVERSION: T04N R26E S26 NNNWNW Within BUTTE County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE IRRIGATION	PERIOD OF USE Irrigation Season	QUANTITY 0.33 CFS
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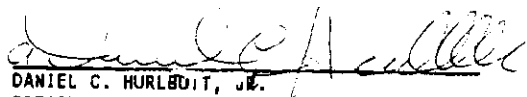
PLACE OF USE:	IRRIGATION T04N R27E S32 150 ACRES TOTAL	Within BUTTE County NENW 39	SENEW 35	NESW 38	SESW 38
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USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 150 ACRES IN A SINGLE
IRRIGATION SEASON.
COMBINED RIGHT NOS.: 34-00313B, 34-00172G, 34-00503E AND
34-07226D.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 16.5 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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.


DANIEL C. HURLBUT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

State of Idaho
PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b),
Water Right 34-004460.
I, _____, certify the foregoing to be a full,
true and correct copy of the original on
file in the above entitled action.

ROBERT S. FORT
CLERK OF THE DISTRICT COURT

By _____
DEPUTY CLERK

