

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

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DEC 06 2011

DEPARTMENT OF
WATER RESOURCES

In Re SRBA

Case No. 39576

Subcase No.: 75-14023 & 75-14027

(Tutor)

DEC - 5 2011

Clerk

Deputy Clerk

ORDER SETTING ASIDE AND
AMENDING PARTIAL DECREES

On October 28, 2009, a *Partial Decree* was issued for water right 75-14023. On January 5, 2011, a *Partial Decree* was issued for water right 75-14027. On August 15, 2011, Claimants, Lloyd A. and Sheryl L. Tutor, filed a *Motion to Set Aside Partial Decrees* for the above-captioned water rights. The matter was referred to the Special Master for further proceedings. On October 24, 2011, the Special Master issued an *Amended 2nd Special Master Report and Recommendation* recommending that the *Partial Decrees* be set aside and *Amended Partial Decrees* be issued. No challenges were filed to the *Amended 2nd 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 *Amended 2nd 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 The previously issued *Partial Decrees* are replaced and superseded thereby.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: December 5, 2011


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 75-14023

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

DEC - 5 2011

By _____

Clerk

Deputy Clerk

NAME AND ADDRESS: LLOYD A TUTOR
SHERYL L TUTOR
HC 60 BOX 52E12
ROUND MOUNTAIN, NV 89045

SOURCE: CARMEN CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 0.038 CFS

PRIORITY DATE: 12/22/1910

POINT OF DIVERSION: T23N R22E S35 NENE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.038 CFS

PLACE OF USE: Irrigation Within Lemhi County

T22N R22E S03 LOT 2 (NWNE) 1.2
T23N R22E S34 SWSE 1.7
2.9 Acres Total

Right Nos. 75-14023, 75-14025, 75-14027 and 75-14029 are limited
to the irrigation of a combined total of 2.9 acres in a single
irrigation season.
Place of use does not include federal public lands.

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. Widdman
Presiding Judge of the
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)
_____)

AMENDED

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

Water Right 75-14027

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

DEC - 5 2011

By _____

Clerk

Deputy Clerk

NAME AND ADDRESS: LLOYD A TUTOR
SHERYL L TUTOR
HC 60 BOX 52E12
ROUND MOUNTAIN, NV 89045

SOURCE: CARMEN CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 0.007 CFS

PRIORITY DATE: 05/01/1882

POINT OF DIVERSION: T23N R22E S35 NENE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.007 CFS

PLACE OF USE: Irrigation Within Lemhi County

T22N R22E S03 LOT 2 (NWNE) 1.2
T23N R22E S34 SWSE 1.7
2.9 Acres Total

Place of use does not include federal public lands.
The rights listed below are limited to the irrigation of a
combined total of 2.9 acres in a single irrigation season.
Combined Right Nos.: 75-14023, 75-14025, 75-14027 and 75-14029.

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

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER SETTING
ASIDE AND AMENDING PARTIAL DECREES was mailed on December 05,
2011, with sufficient first-class postage to the following:

UNITED STATES OF AMERICA

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
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BOISE, ID 83724

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ROBERT M & JACQUELINE ERNEST

BOX 132
CARMEN, ID 83462

JAMES R & ROWENA D QUINN

BOX 1473
CARMEN, ID 83462

JOHN E & RUTH C BURNS

BOX 264
CARMEN, ID 83462

RICK & LINDA RICE

BOX 285
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LLOYD A & SHERYL L TUTOR

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SHERYL L TUTOR
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