

2002 FEB 26 AM 8:42

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	)	For Decreed Water Right 36-2366A
	)	(Split administratively into water rights 36-2366C and
	)	36-2366D)
Case No. 39576	)	
_____	)	ORDER AMENDING IRRIGATION PERIOD OF USE
	)	ELEMENT IN PARTIAL DECREE and
	)	INCORPORATING INTO PARTIAL DECREE AN
	)	EXPRESS STATEMENT REGARDING GENERAL
	)	PROVISIONS, <i>NUNC PRO TUNC</i>

A *Partial Decree* was entered for water right 36-2366A ("decreed water right") on December 29, 1997. The period of use element therein 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, pursuant to administrative proceedings conducted before the Idaho Department of Water Resources (IDWR), the decreed water right was split into multiple water rights designated as 36-2366C and 36-2366D ("split water rights"). On August 2, 1999 IDWR filed a *Supplemental Director's Report, Reporting Area 3, IDWR Basin 36, Regarding Revision of Period of Use (For Irrigation Water Uses) and Conjunctive Management General Provisions*, which included irrigation period of use recommendations for the split water rights.¹ There are no outstanding objections to IDWR's recommendations. The Court finds that IDWR's recommendations for irrigation period of use for the split water rights are based on the irrigation period of use for the decreed water right.

¹ Some or all of these split water rights may have again been split or affected by administrative proceedings following the issuance of the *Supplemental Director's Report*. However, this *Order* only amends the *Partial Decree* that was issued for the decreed water right and addresses only those split rights that were contained in the *Supplemental Director's Report*. Administrative changes to the split rights, if any, that occurred following the issuance of the *Supplemental Director's Report* are not affected by this *Order* and are therefore not referenced.

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

PERIOD OF USE: 04-01 to 10-31

The use of water for irrigation under this right may begin as early as March 15 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 31 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

IT IS FURTHER ORDERED that the *Partial Decree* for the above-captioned decreed 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).

IT IS FURTHER ORDERED that this order is being entered *nunc pro tunc* effective as of the date the *Partial Decree* was issued and shall not supercede any subsequent administrative changes to the water right that may have 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: February ⁶2~~3~~, 2002.



ROGER BURDICK
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 36-02366A

1997 DEC 29 PM 3:08

DISTRICT COURT - SRBA
TWIN FALLS CO, IDAHO

NAME & ADDRESS: WILLIAM L PUGH
BETTY D PUGH
GS#34611343
PO BOX 6034
ENGLEWOOD CO 80155-6034

SOURCE: GROUNDWATER

QUANTITY: 1.24 CFS
248.0 AFY

PRIORITY DATE: 12/16/1958

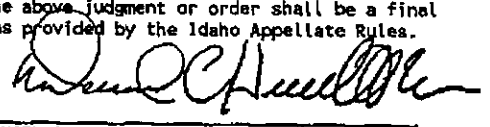
POINT OF DIVERSION: T07S R13E S01 SESESW Within GOODING County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	Irrigation Season	1.24 CFS 248.0 AFY

PLACE OF USE:	IRRIGATION	Within GOODING County
	T07S R13E S01	SWSW 5 SESW 12
	S12	NENW 18 NWNW 27
	62 ACRES TOTAL	

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. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication