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DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE

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

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

MAR - 3 2010

In Re SRBA

Case No. 39576

Subcase No.: 63-28238

(Kincheloe)

ORDER SETTING ASIDE AND
AMENDING PARTIAL DECREE

Clerk

Deputy Clerk

On May 31, 2000, a *Partial Decree* was issued for the above-captioned right. On May 16, 2007, a *Motion to Set Aside Partial Decree* was filed by the claimants for said right. The matter was referred to the Special Master for further proceedings. On June 14, 2007, the Special Master issued a *Special Master's Report and Recommendation* recommending that the *Partial Decree* be set aside and an *Amended Partial Decree* 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 Decree* for the above-captioned water right is hereby set aside and amended as set forth in the attached *Amended Partial Decree Pursuant to I.R.C.P. 54(b)*. The previously issued *Partial Decree* is replaced and superseded thereby.

DATED: March 3, 2010

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)

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

Case No. 39576)

Water Right 63-28238

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

MAR - 3 2010

By

Clerk

Deputy Clerk

NAME AND ADDRESS:

RICHARD L KINCHELOE
STEPHANIE R KINCHELOE
20521 PEAR LN
CALDWELL, ID 83607

SOURCE:

GROUNDWATER

QUANTITY:

0.04 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE:

07/01/1912

POINT OF DIVERSION:

T03N R04W S23

SWNWSW Within Canyon County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE
Domestic 1 HOME

PERIOD OF USE
01-01 TO 12-31

QUANTITY
0.04 CFS

PLACE OF USE:

Domestic

T03N R04W S23

NWSW

Within Canyon County

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT 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
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 DECREE was mailed on March 03, 2010,
with sufficient first-class postage to the following:

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

RICHARD L KINCHELOE
STEPHANIE R KINCHELOE
20521 PEAR LN
CALDWELL, ID 83607
Phone: 208-459-2857

ORDER

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Deputy Clerk

Julie Murphy