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MAR 05 2009

DEPARTMENT OF
WATER RESOURCES

1001

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
MAR - 3 2009	
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

Case No. 39576

)
)
) ORDER OF AMENDED PARTIAL
) DECREE TO CORRECT CLERICAL
) ERROR: I.R.C.P 60(a)
)
) For water right: 37-21363
)

The above-captioned water right is part of a subcase involving objections to a proposed General Provision in Basin 37, Part 2, for Irrigation and Other Rights. On August 21, 2008, the parties of the subcase filed a *Stipulation to Resolve Basin 37 Part 2 General Provision Objection*. The *Stipulation* calls for the language of the General Provision to be included on the face of each *Partial Decree*.¹ However, prior to receiving the *Special Master's Report and Recommendation* on the General Provision's language, the *Partial Decree* was issued for this water right on January 6, 2009. Thereafter, it was brought to this Court's attention that the *Partial Decree* was issued without the General Provision language. Because the Court finds this is due to a clerical error, the Court finds no reason to delay entry of an *Amended Partial Decree*. This Court will also separately issue a *Partial Decree* for the General Provision.

Therefore, pursuant to I.R.C.P. 60(a), IT IS ORDERED that water right 37-00817 is hereby **amended and decreed** as set forth in the attached *Amended Partial Decree Pursuant to I.R.C.P. 54(b)*.

¹ In the SRBA, in order to avoid delay in decreeing individual water rights, General Provisions are decreed separately from the Partial Decrees for individual rights. The Partial Decrees for individual rights include "savings language" which incorporates any General Provision that is ultimately decreed. Although the settlement in the instant case required the General Provision to appear on the face of the Partial Decree, a General Provision decreed separately and incorporated into savings language is just as applicable to the right and enforceable the same as if it appeared on the face of the Partial Decree.

Dated March 3, 2009

John M. Melanson

JOHN M. MELANSON
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 37-21363

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
MAR - 3 2009	
By _____	Clerk
_____	Deputy Clerk

NAME AND ADDRESS: SCOTT T SCHEER
RT 1 BOX 1080
FAIRFIELD, ID 83327

SOURCE: CAMAS CREEK TRIBUTARY: BIG WOOD RIVER

QUANTITY: 1.15 CFS

PRIORITY DATE: 06/01/1898

POINT OF DIVERSION: T01S R14E S36 NWSWNE Within Camas County
R15E S31 SENWNE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	1.15 CFS

PLACE OF USE:	Irrigation	Within Camas County
	T01S R15E S29	SESE 38.0
		SESE 39.0
	S32	NENE 22.0
	170.0 Acres Total	NWNE 31.0

The rights listed below are limited to the irrigation of a combined total of 170 acres in a single irrigation season. Combined Right Nos.: 37-591A, 37-592A, 37-21363, & 37-21367. This right is limited to the irrigation of 137 acres within the place of use described above in a single irrigation season.

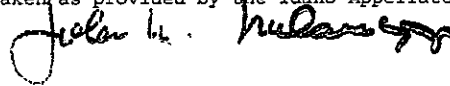
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS WATER RIGHT SHALL BE ADMINISTERED AS BEING FROM A SEPARATE SOURCE PURSUANT TO BASIN 37 PART 2 GENERAL PROVISION NO 1A. IF THE HOLDER OF THIS RIGHT SEEKS TO CHANGE THE RIGHT PURSUANT TO IDAHO CODE SEC 42-222 OR SUCCESSOR STATUTE, NOTHING IN THIS GENERAL PROVISION SHALL PRECLUDE ANY OTHER PERSON OR ENTITY FROM DEMONSTRATING THAT SUCH A CHANGE IN USE WOULD CAUSE INJURY TO ITS WATER RIGHT OR FROM RECEIVING ANY RELIEF PROVIDED BY LAW IN THE EVENT OF INJURY.

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.



John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

2009 MAR 02 PM 02:00
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

Case No. 39576

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)
)
)
CERTIFICATE OF MAILING

Water Right(s): 37-21363

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 37-21363 was mailed
on March 02, 2009, with sufficient first-class postage prepaid
to the following:

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

SCOTT T SCHEER
RT 1 BOX 1080
FAIRFIELD, ID 83327
Phone: 208-863-8799

DIANA DELANEY

Chief Deputy Clerk