



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

January 30, 2009

Hon. John Melanson
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

RE: Subcase No. 63-287D (Ruff)

Dear Judge Melanson:

A *Partial Decree Pursuant to I.R.C.P. 54(b)* was issued for this water right on January 22, 2009, a copy of which is attached hereto. This water right was reported in the *Director's Report for Late and Miscellaneous Claims*, which was filed with the SRBA Court on March 21, 2008.

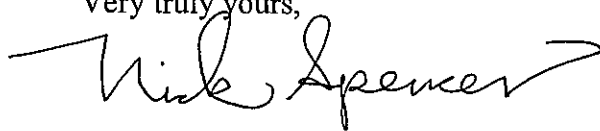
While processing a Change of Ownership to add the claimant's wife's name to this water right, the Department has recently discovered a clerical error in the Partial Decree for it. The error in the place of use was originally made by the claimant in reading the plat map, but is an error that the Department would have fixed, prior to issuing a Director's Report, had it caught the error. Unfortunately, IDWR didn't catch it. The error in the reading of the plat map followed forward onto the Notice of Claim, the subsequent Director's Report and the Partial Decree. The proper place of use for this water right is in the NWNW, S19, T4N, R1E, rather than the SESW, S19, T4N, R1E.

Accordingly, it seems appropriate for the Court to set aside the partial decree pursuant to Rule 60(a) of the Idaho Rules of Civil Procedure and decree the right as described in the attached Amended Director's Report.

I am sending a copy of this letter to Russell Ruff, the claimant for this water right, and to Kimberly Ruff, whose name is being added as a owner of this water right, but the Change in Ownership has not yet been processed by the Department because of the error in the place of use description of this water right.

If you should have any questions or comments, please feel free to contact me at (208) 287-4813.

Very truly yours,

A handwritten signature in black ink, appearing to read "Nick Spencer", with a long horizontal line extending from the end of the signature.

Nicholas B. Spencer
Deputy Attorney General, IDWR

Enclosures

cc: Craig Saxton
Jean Hersley
Russell Ruff
Kimberly Ruff

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 63-00287D

RECEIVED

JAN 23 2009

DEPARTMENT OF
WATER RESOURCES

NAME AND ADDRESS: RUSSELL RUFF
200 E CLEAR CREEK DR
MERIDIAN, ID 83646

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 0.04 CFS

This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and proceeding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 06/01/1882

POINT OF DIVERSION: T04N R01E S22 LOT 6 (SENW) Within Ada County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	03-01 TO 11-15	0.04 CFS
Irrigation Storage	03-01 TO 11-15	0.10 AFY
Irrigation from Storage	03-01 TO 11-15	0.10 AFY
Wildlife	01-01 TO 12-31	0.20 AFY
Aesthetic	01-01 TO 12-31	0.20 AFY

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoirs dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE: Irrigation Within Ada County
T04N R01E S19 SENW 1.9
1.9 Acres Total

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

PLACE OF USE (continued)

Irrigation Storage		Within Ada County
T04N R01E S19	SENW	
Irrigation from Storage		Within Ada County
T04N R01E S19	SENW 1.9	
1.9 Acres Total		
Wildlife		Within Ada County
T04N R01E S19	SENW	
Aesthetic		Within Ada County
T04N R01E S19	SENW	

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.

John M. Melanson

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

01/29/2009

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-287D

NAME AND ADDRESS: RUSSELL RUFF
200 E CLEAR CREEK DR
MERIDIAN ID 83646

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.040 CFS

This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and proceeding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 06/01/1882

POINT OF DIVERSION:

T04N R01E S22 SENW Lot 6 Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.040 CFS
IRRIGATION FROM STORAGE	03/01 11/15	0.10 AFY
WILDLIFE	01/01 12/31	0.20 AFY
AESTHETIC	01/01 12/31	0.20 AFY
IRRIGATION STORAGE	03/01 11/15	0.10 AFY

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoirs dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE: IRRIGATION in ADA County

T04N R01E S19 NWNW 1.90

IRRIGATION STORAGE in ADA County

T04N R01E S19 NWNW

IRRIGATION FROM STORAGE in ADA County

01/29/2009

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

T04N R01E S19 NWNW 1.90

WILDLIFE in ADA County

T04N R01E S19 NWNW

AESTHETIC in ADA County

T04N R01E S19 NWNW

1.9 ACRES TOTAL

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.

This right is also designated as Right No. 85-A in the Boise River Stewart Decree and Boise River Water Distribution Report.