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Documents
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IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 36-7116D

WATER RIGHT NUMBER: 36-7116D

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	LUIS M BETTENCOURT PO BOX 587 JEROME, ID 83338 (208)536-6148
Original Owner	F F GUNNING PO BOX 716 WENDELL, ID 83355-0716 (208)536-6390
Original Owner	IRENE GUNNING PO BOX 716 WENDELL, ID 83355 (208)536-6390

Priority Date: 02/18/1970

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
COMMERCIAL	1/01 to 12/31	0.720 CFS	43.00 AF
STOCKWATER	1/01 to 12/31	0.720 CFS	65.00 AF
	<u>Total Diversion:</u>	0.720 CFS	108.00 AF

Location of Point(s) of Diversion

GROUND WATER	SE1/4NE1/4	Sec. 25, Twp 07S, Rge 15E, B.M.
GOODING County		
GROUND WATER	SE1/4SE1/4	Sec. 25, Twp 07S, Rge 15E, B.M.
GOODING County		

Place of Use

COMMERCIAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	15E	25				X												X	
07S	16E	19											X	X			X	X	
													L 4						
07S	16E	30	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
													L 3	L 4					

STOCKWATER

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 36-7116D

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	15E	24																X	
07S	15E	25	X	X	X	X									X	X	X	X	

Conditions of Approval:

1. 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
2. 067 The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
3. 081 Use of water under this approval shall comply with applicable water quality standards of the Division of Environmental Quality of the Idaho Department of Health and Welfare.
4. 082 The dairy operation authorized under this approval shall comply with applicable county zoning and use ordinances.
5. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
6. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Remarks:

1. General The total instantaneous diversion of water from all points of diversion under Transfer 5438 shall not exceed 3.45 cfs, nor a total combined annual volume of 810.0 af.
The water used for commercial purposes under this approval is applied to and irrigates land listed in the place of use to satisfy water quality requirements. Water shall not irrigate growing plants unless the water is first beneficially used in the dairy as authorized by these water rights. Commercial use is for a dairy with barns located within SENE and SESE, S25, T07S, R15E.
Two (2) points of diversion are located within both the SESE and SENE, S25, T07S, R15E, identifying a total of four (4) wells that are authorized under this approval.

Comments:

1. ROBERTSO 7/9/1992 NAME STANDARD
Comment:

2. PSKAGGS 10/19/1999 TRANSFER 5438
Comment: Transfer 5438 adds points of diversion, changes the place, nature & season of use under a portion of Right 36-07054 (A & B) & 36-07116B (C & D), splitting each right.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 36-7116D

Dates and Other Information:

Licensed Date:

Decreed Date: 12/29/1997

Water Supply Bank Enrollment Accepted:

Water Supply Bank Enrollment Removed:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

State or Federal:

Owner Name Connector:

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Decree Defendant:

Decree Plaintiff:

Civil Case Number: 39576

Judicial District: FIFTH

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Combined Use Limits:

Important Information About Your Water Right

December 12, 2001

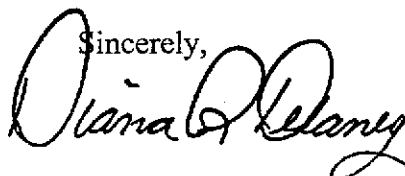
F F Gunning
Irene Gunning
PO Box 716
Wendell, ID 83355

Dear Water Right Claimant(s):

The reverse side of this letter contains a copy of an *Order Amending Irrigation Period of Use Element in Partial Decree, Nunc Pro Tunc* (hereinafter "*Order*") for water right number 36-07116B. According to Idaho Department of Water Resources (IDWR) records, you are the current owner of this water right. If you are not the current owner, please contact IDWR immediately at:

Idaho Department of Water Resources
1301 North Orchard
Boise, ID 83706
800-451-4129

The purpose of the *Order* is to set forth beginning and ending dates for the irrigation period of use for this water right. As stated in the face of the *Order*, this action was necessary following the decision of the Idaho Supreme Court in *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998). This *Order* also incorporates into the *Partial Decree* an express statement that the *Partial Decree* is subject to such general provisions necessary for the definition or for the efficient administration of the water right. This express statement is necessary to comply with the requirements of Idaho Code section 42-1412(6). This *Order*, in combination with the *Partial Decree* that was issued for this water right on December 29, 1997, sets forth all of the elements of your water right. The Snake River Basin Adjudication (SRBA) Court suggests that you keep this document in a safe location together with a copy of the *Partial Decree* to show evidence of this water right. The original of this *Order* and the original of the *Partial Decree* for this water right are on file with SRBA Court. If you do not have a copy of the original *Partial Decree*, one can be obtained by contacting the SRBA Court at (208) 736-3011. Please note that the *Order* is entered *Nunc Pro Tunc*, meaning that the *Order* will be treated as if it were issued on the same date that the *Partial Decree* was originally issued.

Sincerely,


Diana Delaney
Case Administrator

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	)	Water Right 36-07116B
	)	
	)	ORDER AMENDING IRRIGATION PERIOD OF USE
	)	ELEMENT IN PARTIAL DECREE and
Case No. 39576	)	INCORPORATING INTO PARTIAL DECREES AN
	)	EXPRESS STATEMENT REGARDING GENERAL
	)	PROVISIONS, <i>NUNC PRO TUNC</i>

A *Partial Decree* was entered for the above-captioned irrigation water right on December 29, 1997. The period of use element 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, on June 24, 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 an irrigation period of use recommendation for this water right. No objections were filed to this *Supplemental Director's Report*

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

PERIOD OF USE: 04-01 to 11-01

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 November 1 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 water right is hereby amended and decreed to contain the following:

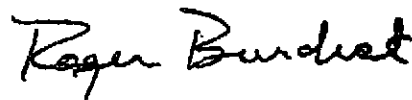
This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the court at a point in time no later than the entry of a final unified decree. I.C. section 42-1412(6).

This order is being entered *nunc pro tunc* as of the date the *Partial Decree* was issued and is not intended to modify subsequent administrative changes for the water right, if any, which 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 December 12, 2001.



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 36-071168

1997 DEC 29 AM 10:34

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED _____

NAME & ADDRESS: IRENE GUNNING
F F GUNNING
PO BOX 716
WENDELL ID 83355

SOURCE: GROUNDWATER

QUANTITY: 4.12 CFS
824.0 AFY

PRIORITY DATE: 02/18/1970

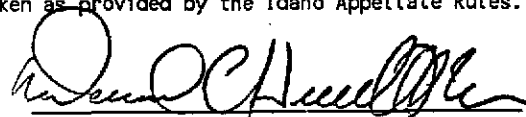
POINT OF DIVERSION: T07S R15E S25 SENENW Within GOODING County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION		Irrigation Season	4.12 CFS 824.0 AFY

PLACE OF USE:	IRRIGATION	Within GOODING County			
	T07S R15E S25	NWNE 30	SWNE 33	NENW 40	NWNW 33
		SWNW 33	SENE 36	NWSE 1	
	206 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

MEMORANDUM

TO: File 36-07054 & 36-07116B
FROM: Pam Skaggs/State Office *CS*
SUBJECT: Transfer 5438
DATE: October 20, 1999

Transfer 5438 changes and adds points of diversion, changes the nature, place and season of use under a portion of Rights 36-07054 (A & B) and 36-07116B (C & D), splitting each right into parts. The applicant is removing 270 acres from irrigation to provide for the development of a dairy that will be built on-site.

The application proposes a disproportionate split of the diversion rate on Right 36-07054, transferring only 2.73 cfs of 3.47 cfs associated with the 234 acres taken out of irrigation under this right. The balance of the diversion rate will remain with the irrigation portion of the right bringing the rate per acre up to 0.02 cfs. The total consumptive use volume associated with the 270 acres has been identified for the new dairy uses allowing for the maximum development. A net reduction in diversion and consumptive use volume results through this approval.

Recommended conditions include drilling permit requirements, measuring and annual reporting, multiple points of diversion limits, water quality standards, count zoning requirements, land application limits and standard transfer conditions.

<u>Change in Nature of Use Evaluation</u>			
	<u>Rate</u>		<u>Div. Vol./C.U. Vol.</u>
36-07054	5.57 cfs	376.0 Acres	1504.0 afa/1128.0 afa
<i>Part A</i>	<i>2.84 cfs</i>	<i>142.0 Acres</i>	<i>568.0 afa/ 426.0 afa</i>
<i>Part B</i>	<i>2.73 cfs</i>	<i>Stockwater</i>	<i>421.0 afa/ 56.0 afa</i>
	<i>2.73 cfs</i>	<i>Commercial</i>	<i>281.0 afa/ 281.0 afa</i>
	<i>2.73 cfs</i>	<i>(234 Acres Out)</i>	<i>702.0 afa/ 337.0 afa</i>
36-07116B	4.12 cfs	206.0 Acres	824.0 afa/ 618.0 afa
<i>Part A</i>	<i>3.40 cfs</i>	<i>170.0 Acres</i>	<i>680.0 afa/ 510.0 afa</i>
<i>Part B</i>	<i>0.72 cfs</i>	<i>Stockwater</i>	<i>65.0 afa/ 9.0 afa</i>
	<i>0.72 cfs</i>	<i>Commercial</i>	<i>43.0 afa/ 43.0 afa</i>
	<i>0.72 cfs</i>	<i>(36 Acres Out)</i>	<i>108.0 afa/ 52.0 afa</i>
<u>Combined Rts.</u>			
Before	9.69 cfs	582.0 Acres	2328.0 afa/1746.0 afa
After	9.69 cfs	312.0 Acres	2058.0 afa/1325.0 afa

MICROFILMED

NOV 12 1999