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SEP 28 2001

Idaho Department of Water Resources

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

SEP 26 2001

By _____

Deputy

**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 34-10553
	)	
	)	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 8, 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 1, IDWR Basin 34, 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. On July 30, 1999, Claimant Mountain Springs Ranch LLC, through its counsel of record Patrick Brown, filed an objection to the season of use recommendation, but withdrew the objection on April 20, 2001.

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: 05-01 TO 10-15

The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04-20 and an ending date of 10-31 at the discretion of the Director of the Idaho Department of Water Resources.

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 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 September 26, 2001



ROGER BURDICK
Presiding Judge
Snake River Basin Adjudication

2001 SEP 26 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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 34-10553

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 34-10553 was mailed
on September 26, 2001, with sufficient first-class postage prepaid
to the following:

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

STATE OF IDAHO
Represented by:
HARRIET A. HENSLEY
PO BOX 83720
BOISE, ID 83720-0010
Phone: 208-334-4543

MOUNTAIN SPRINGS RANCH LLC
5550 BARTON FLAT RD
MACKAY, ID 83251
Phone: 208-588-2805

MOUNTAIN SPRINGS RANCH LLC
5550 BARTON FLAT ROAD
MACKAY, ID 83251
Phone: 208-588-3110

CERTIFICATE OF MAILING

DIANA DELANEY
Chief Deputy Clerk

PAGE 1
09/26/01

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 34-10553

1997 DEC -8 PM 4: 25
DISTRICT COURT-SEBA
TWIN FALLS CO., IDAHO
FILED

NAME & ADDRESS: MOUNTAIN SPRINGS RANCH LLC
5550 BARTON FLAT RD
MACKAY ID 83251

SOURCE: BIG LOST RIVER
PARSONS CREEK

TRIBUTARY: SINKS
BIG LOST RIVER

QUANTITY: 6.4 CFS

PRIORITY DATE: 05/01/1910

POINT OF DIVERSION: T08N R22E S03
S11
S12
S13

SWSESE
NENESE
NWNENE
SWNWSW
SWNENW

Within CUSTER County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
Irrigation Season

QUANTITY
6.4 CFS

PLACE OF USE:

IRRIGATION
T08N R22E S11
S12
S13
S14
515 ACRES TOTAL

Within CUSTER County

NESW 20
SWSE 30
SWSW 10
NENW 25
NESW 25
NENE 40

SESW 15
SESE 33
SESW 25
NWNW 30
NWSW 30
NWNW 10

NESE 20
SWNW 40
SESW 30
SENE 30

NWSE 40
SENE 25
SWSE 17
NESE 20

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 515 ACRES IN A SINGLE
IRRIGATION SEASON.
COMBINED RIGHT NOS.: 34-00611B, 34-00612B, 34-00613B AND
34-00142.

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

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 34-10553

WATER RIGHT NUMBER: 34-10553

<u>Owner Type</u>	<u>Name and Address</u>
Directors Report Owner	SAN FELIPE RANCH PO BOX 388 MACKAY, ID 83251 (208)588-2805
Attorney	PATRICK D BROWN C/O HUTCHINSON & BROWN LLP 104 LINCOLN ST PO BOX 207 TWIN FALLS, ID 83303-0207 (208)733-9300
Current Owner	MOUNTAIN SPRINGS RANCH 5550 BARTON FLAT RD MACKAY, ID 83251

Priority Date: 05/01/1910

Basis: Decreed

Status: Superseded by Decree

<u>Source</u>	<u>Tributary</u>
BIG LOST RIVER	SINKS
PARSONS CREEK	BIG LOST RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	5/01 to 10/15	6.400 CFS	
	<u>Total Diversion:</u>	6.400 CFS	

Location of Point(s) of Diversion

BIG LOST RIVER CUSTER County	SW1/4NW1/4SW1/4	Sec. 12, Twp 08N, Rge 22E, B.M.
BIG LOST RIVER CUSTER County	NE1/4NE1/4SE1/4	Sec. 11, Twp 08N, Rge 22E, B.M.
BIG LOST RIVER CUSTER County	NW1/4NE1/4SE1/4	Sec. 11, Twp 08N, Rge 22E, B.M.
BIG LOST RIVER CUSTER County	SW1/4NE1/4NW1/4	Sec. 13, Twp 08N, Rge 22E, B.M.
PARSONS CREEK CUSTER County	SW1/4SE1/4SE1/4	Sec. 3, Twp 08N, Rge 22E, B.M.

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
08N	22E	11													20.0		15.0	20.0	40.0	30.0	33.0	158.0

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 34-10553

08N 22E 12						10.0	25.0			35.0				
08N 22E 13				25.0	30.0	40.0	25.0	25.0	30.0	30.0	17.0		222.0	
08N 22E 14		40.0	10.0	30.0							20.0			100.0

Total Acres: 515

Conditions of Approval:

1. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

Remarks:

1. Explanatory THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINTS OF DIVERSION DESCRIBED ABOVE: 34-00611B, 34-00612B, 34-00613B AND 34-00142.
THIS RIGHT IS A COMBINATION OF OLD RIGHT NOS. 34-00143, 34-00144 AND 34-00268.
2. Place of Use - Irrigation USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 515 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 34-00611B, 34-00612B, 34-00613B AND 34-00142.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 34-10553

Comments:

1. DCARLSON 3/4/1992 CHANGED TOTAL DIV RATE IN REMARKS

Comment:

2. SCHULTZ 3/5/1992 NOTICE OF ERROR FORM

Comment: NOTICE OF ERROR FORM (NOE) RECEIVED 3/3/92. I CHANGED NOE FLAG FROM "D" TO "A".

3. DCARLSON 5/6/1992 NOTICE OF ERROR

Comment: NO CHANGES

4. DCARLSON 5/20/1992 ADDED PARSONS CREEK AS A SOURCE

Comment:

5. CARLSEN 5/22/1992 CHANGED REMARKS

Comment: ADDED MULTIPLE SOURCE REMARK B04.

6. DCARLSON 5/22/1992 DROPPED TOTAL COMB DIVERSION RATE

Comment:

7. DSMITH 1/5/1996 NAME AND/OR ADDRESS CHANGE

Comment: THE NAMES OR ADDRESSES IN THE NAME FILE WERE CHANGED WITHOUT THE ABOVE USER NOTING EXACTLY WHAT WAS CHANGED. THE CHANGE FOR A K-OWNER OR ATTORNEY MAY HAVE BEEN MADE WITHOUT A WATER RIGHT OWNER CHANGE. *CONFORMED NAME/ADDRESS TO AVOID DUPLICATE MAILING LABELS.

8. DCARLSON 7/23/1997 REFORM/FLAG CHANGE

Comment: THESE RIGHTS ARE NOT AN EXPANSION, BUT C05 CHANGE

9. JHOAGLAN 9/26/1997 OWNERSHIP CHANGE

Comment: CHANGED OWNERSHIP PER REQUEST/NCAP TO COURT

10. jpeppers 9/15/2003 10:22:56 AM Water Right

Comment: Water Right No(s) 34 10553 superseded by Decree No(s) 34 10553A , 34 10553B ,

Dates and Other Information:

Licensed Date:

Decreed Date: 12/8/1997

Water Supply Bank Enrollment Accepted:

Water Supply Bank Enrollment Removed:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

State or Federal: S

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:RateVolumeAcres

515

Combined Water Rights: 34-10553

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 34-10553



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

September 10, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

DENNIE H DONAHUE
DONNA DONAHUE
STAR ROUTE
MACKAY ID 83251

RE: Decreed Water Right X34-10553A

Dear Mr. & Mrs. Donahue:

The department acknowledges receipt of correspondence changing ownership of the above referenced decreed water right to you. The department has modified its records to reflect the change in ownership and has enclosed a computer-generated report for your records.

Please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address of the owner of a water right to the department. Notice of the change must be provided to the department within 120 days of the change. Change reporting forms are available from any office of the department.

Please feel free to contact the department if you have questions.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Jeff Peppersack'.

Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosure

SEP 10 1999

SEP 21 1999