

JAN 25 2002

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     | ) | <b>For Decreed Water Right 34-00548</b>                             |
|                | ) | <b>(Split administratively into water rights 34-13643 &amp; 34-</b> |
|                | ) | <b>13644.)</b>                                                      |
| Case No. 39576 | ) |                                                                     |
| _____          | ) | <b>ORDER AMENDING IRRIGATION PERIOD OF USE</b>                      |
|                | ) | <b>ELEMENT IN PARTIAL DECREE and</b>                                |
|                | ) | <b>INCORPORATING INTO PARTIAL DECREE AN</b>                         |
|                | ) | <b>EXPRESS STATEMENT REGARDING GENERAL</b>                          |
|                | ) | <b>PROVISIONS, NUNC PRO TUNC</b>                                    |

A *Partial Decree* was entered for water right 34-00548 ("decreed water right") on January 15, 1998. The period of use element therein 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. 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* ("Supplemental Director's Report"), which included irrigation period of use recommendations for the decreed water right. There are no outstanding objections to IDWR's recommendations. Following the issuance of the *Supplemental Director's Report*, pursuant to administrative proceedings conducted before the Idaho Department of Water Resources (IDWR), the decreed water right was split into multiple water rights designated as 34-13643, and 34-13644 ("split water rights").<sup>1</sup>

<sup>1</sup> Some or all of these split water rights may have again been split or affected by subsequent administrative proceedings. However, this *Order* only amends the *Partial Decree* that was issued for the decreed water right and does not affect any administrative changes to the water right occurring subsequent to the entry of the *Partial Decree*.

THEREFORE, IT IS ORDERED that period of use element for the irrigation portion of the above-captioned decreed 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.

IT IS FURTHER ORDERED that the *Partial Decree* for the above-captioned decreed 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).

IT IS FURTHER ORDERED that this order is being entered *nunc pro tunc* effective as of the date the *Partial Decree* was issued and shall not supercede any subsequent administrative changes to the water right that may have 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: January 25, 200<sup>2</sup>1.



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ROGER BURDICK  
Presiding Judge  
Snake River Basin Adjudication

DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED \_\_\_\_\_

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