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Department of Water Resources

2001 JUN 22 PM 3:52

ISBA-2001-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

ORDER OF PARTIAL DECREE

For Water Right 34-10765

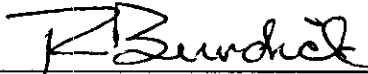
On March 4, 1998, a *Special Master's Report and Recommendation* was filed for the above water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

On June 24, 1999, in response to the Idaho Supreme Court decision in *A&B Irrigation District v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998), 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 a recommendation for the irrigation season of use for this water right. No objections to this Supplemental Report were filed and the time period for filing objections has now expired.

Therefore, IT IS ORDERED that water right 34-10765 is hereby **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED 6-22-01

  
\_\_\_\_\_  
ROGER S. 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 34-10765

2001 JUN 22 PM 3: 52

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

NAME AND ADDRESS: DIXIE WHITWORTH  
SCOTT WHITWORTH  
PO BOX 147  
MAY, ID 83255

SOURCE: ANTELOPE CREEK TRIBUTARY: BIG LOST RIVER

QUANTITY: 1.60 CFS

THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER  
DESCRIBED FOR STOCKWATER PURPOSES AT A POINT OF MEASUREMENT  
WHERE THE DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED.

THE QUANTITY OF WATER UNDER THIS RIGHT OR STOCKWATER USE  
SHALL NOT EXCEED 13,000 GALLONS PER DAY.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO  
A TOTAL COMBINED DIVERSION RATE OF 23.94 CFS.  
COMBINED RIGHT NOS.: 34-00116A, 34-00782A, 34-02321, 34-07015,  
34-10729, 34-10763 AND 34-10767.

PRIORITY DATE: 11/15/1883

POINT OF DIVERSION: T05N R25E S21 SENE Within Custer County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Irrigation     | 05-01 TO 10-15 | 1.60 CFS |
|                               | Stockwater     | 01-01 TO 12-31 | 0.02 CFS |

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 DEPARTMENT OF WATER RESOURCES.

| PLACE OF USE: | Irrigation                      | Within Butte County  |
|---------------|---------------------------------|----------------------|
|               | T05N R25E S02 LOT 02 (NWNE)33.0 | SWNE 40.0            |
|               |                                 | Within Custer County |
|               |                                 | NENW 37.0            |
|               |                                 | SWNW 7.0             |
|               |                                 | SENE 33.0            |
|               | T06N R25E S25                   | SWSW 9.0             |
|               | S26                             | SESW 17.0            |
|               |                                 | SESE 30.0            |
|               | S34 LOT 01 (NENE)28.0           | NWNE 39.0            |
|               |                                 | SWNE 40.0            |
|               |                                 | LOT 02 (SENE)35.0    |
|               | S35                             | NENW 37.0            |
|               |                                 | SWNW 40.0            |
|               |                                 | NESW 37.0            |
|               |                                 | NWSW 40.0            |
|               |                                 | SESW 40.0            |
|               | 738.0 Acres Total               |                      |
|               | Stockwater                      | Within Custer County |
|               | T05N R25E S02 LOT 04 (NWNW)     | SWNW                 |
|               | T06N R25E S34 LOT 02 (SENE)     |                      |
|               | S35                             | SENE                 |
|               |                                 | NWSW                 |

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO  
THE IRRIGATION OF A COMBINED TOTAL OF 936 ACRES IN A SINGLE  
IRRIGATION SEASON.

PLACE OF USE (continued)

COMBINED RIGHT NOS.: 34-00116A, 34-00782A, 34-02321, 34-07015,  
34-10729, 34-10763 AND 34-10767.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 80 ACRES WITHIN  
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

THE QUANTITY OF WATER DECREE FOR THIS WATER RIGHT FOR  
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL  
USE.

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.



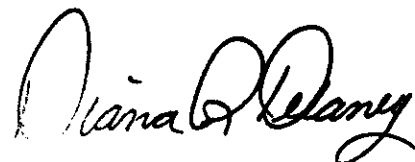
Roger Burdick  
Presiding Judge of the  
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF PARTIAL DECREE was mailed on June 22, 2001, with sufficient first-class postage to the following:

DIXIE WHITWORTH  
SCOTT WHITWORTH  
PO BOX 147  
MAY, ID 83255  
Phone: 208-876-4432

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

A handwritten signature in black ink, appearing to read "Diana A. Delaney". The signature is written in a cursive, flowing style with a large initial "D".