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Department of Water Resources

2002 APR 26 PM 2:53

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	)	For Decreed Water Right 36-7377
	)	(Split administratively into water
	)	rights 36-7377A & 36-7377B.)
Case No. 39576	)	
_____	)	ORDER AMENDING IRRIGATION PERIOD OF USE
	)	ELEMENT IN PARTIAL DECREE and
	)	INCORPORATING INTO PARTIAL DECREE AN
	)	EXPRESS STATEMENT REGARDING GENERAL
	)	PROVISIONS, <i>NUNC PRO TUNC</i>

A *Partial Decree* was entered for water right 36-7377 ("decreed water right") on January 2, 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. Following remand, pursuant to administrative proceedings conducted before the Idaho Department of Water Resources (IDWR), the decreed water right was split into two water rights designated as 36-7377A and 36-7377B ("split water rights"). On August 2, 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 split water right 36-7377A.¹ There are no outstanding objections to IDWR's recommendation. The Court finds that IDWR's recommendation for the irrigation period of use for split water right 36-7377A is based on the irrigation period of use for the decreed water right.

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:

¹ It is the understanding of the Court that 36-7377B is not an irrigation water right, and hence IDWR did not include it in the *Supplemental Director's Report*.

PERIOD OF USE: 03-15 to 11-15

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: April 26 2002.



ROGER BURDICK
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER AMENDING IRRIGATION PERIOD OF USE ELEMENT IN PARTIAL DECREE 36-7377 was mailed on April 26, 2002, with sufficient first-class postage to the following:

STATE OF IDAHO

Represented by:
CLIVE STRONG
NATURAL RESOURCES
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720-0010
Phone: 208-334-2400

MICHAEL BRANCHFLOWER

Represented by:
KEVIN F TRAINOR
PO BOX 83
TWIN FALLS, ID 83303-0083
Phone: 208-733-2722

DIRECTOR OF IDWR

PO BOX 83720
BOISE, ID 83720-0098

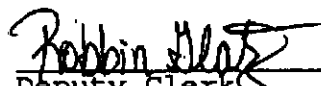
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ORDER AMENDING

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Deputy Clerk

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5522
WATER RIGHT NO(S) . 36-07377D/36-07547D

This is to certify that: **SOUTHFIELD DAIRY**
3308 S 1600 E
WENDELL ID 83355

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Right No. 36-07377D :			
STOCKWATER	01/01 to 12/31	0.79 CFS	152.1 AF
COMMERCIAL	01/01 to 12/31	0.79 CFS	152.1 AF
Priority: 09/07/1973			
SUBTOTAL:		0.79 CFS	152.1 AF
Right No. 36-07547D :			
STOCKWATER	01/01 to 12/31	1.14 CFS	315.0 AF
COMMERCIAL	01/01 to 12/31	1.14 CFS	315.0 AF
Priority: 05/13/1975			
SUBTOTAL:		1.14 CFS	315.0 AF
TOTAL:		* 1.62 CFS	* 315.0 AF

SOURCE

GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION:

SENW , Sec. 10, Township 08S, Range 14E
GOODING County

PLACE OF USE: STOCKWATER

TWN RGE SEC

08S 14E 10

NENW

SWNW

SENW

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SEP 18 2000

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FEB 03 2000

TRANSFER NO. 5522
WATER RIGHT NO(S). 36-07377D/36-07547D

PLACE OF USE: COMMERCIAL

TWN RGE SEC

08S 14E	9	NENE	NWNE	SWNE
		SENE		
10		NENW	SWNW	SENW

CONDITIONS OF APPROVAL AND REMARKS

Rights 36-07377D and 36-07547D are subject to the conditions of the Preliminary Order in the matter of Application for Transfer 5522.

Dated this 24th day of January, 2000

J. Glen Saylor
Chief, Water Allocation Bureau

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OCT 10 2000

MICROFILMED

FEB 03 2000

1998 JAN -2 AM 8:15

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

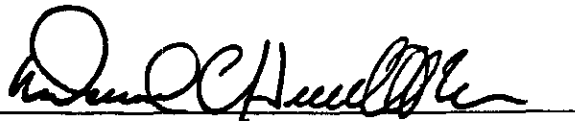
) **ORDER OF PARTIAL DECREE**
)
)
) **For Water Right 36-07377**
)

On November 13, 1997, 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.

Therefore, IT IS ORDERED that water right 36-07377 is hereby **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED JAN 2 1998.



DANIEL C. HURLBUTT, JR.
Presiding Judge
Snake River Basin Adjudication

ORDER OF PARTIAL DECREE

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OCT 07 2000

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FEB 03 2000

Page 1

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 36-07377

1997 JAN -2 AM 8:15
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED _____

NAME & ADDRESS: MICHAEL G BRANCHFLOWER
KATHY L BRANCHFLOWER
PO BOX 392
WENDELL ID 83355

SOURCE: GROUNDWATER

QUANTITY: 2.23 CFS

THIS RIGHT AND RIGHT NO. 36-07547 IS LIMITED TO THE TOTAL COMBINED RATE OF DIVERSION OF 4.56 CFS.

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS ALSO LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 5.81 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 1192 AF.
COMBINED RIGHT NOS.: 36-04021, 36-10916, AND 36-07547A.

PRIORITY DATE: 09/07/1973

POINT OF DIVERSION: T08S R14E S09 NENENE Within GOODING County
NWNENE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	Irrigation Season	2.23 CFS

PLACE OF USE:	IRRIGATION	Within GOODING County			
	T08S R14E S03	NWSW 33	SWSW 39	SESW 2	
	S04	NESE 33	SWSE 2	SESE 37	
	S09	NENE 32	NWNE 40	SWNE 40	SENE 40
	298 ACRES TOTAL				

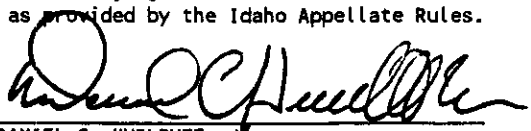
USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS ALSO LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 298 ACRES IN A SINGLE IRRIGATION SEASON.

COMBINED RIGHT NOS.: 36-04021, 36-10916, AND 36-07547A.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 144 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 36-07377

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DEC 07 2003

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DEC-5-1997

1998 JAN 02 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): 36-07377

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 36-07377 was mailed
on January 02, 1998, with sufficient first-class postage prepaid
to the following:

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

STATE OF IDAHO
Represented by:
CLIVE STRONG
OFFICE OF ATTORNEY GENERAL
STATE OF IDAHO
PO BOX 44449
BOISE, ID 83711-4449
Phone: 208-334-2400

MICHAEL BRANCHFLOWER
Represented by:
KEVIN F TRAINOR
PO BOX 83
TWIN FALLS, ID 83303
Phone: 208-733-2722

DIANA DELANEY
Chief Deputy Clerk

CERTIFICATE OF MAILING

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FEB 03 2000

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OCT 07 2003
PAGE 1
01/02/98

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 36-7377A

WATER RIGHT NUMBER: 36-7377A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	MICHAEL G BRANCHFLOWER PO BOX 575 HAGERMAN, ID 83332-0575 (208)543-2322
Current Owner	KATHERINE L BRANCHFLOWER PO BOX 575 HAGERMAN, ID 83332-0575 (208)543-2322
Original Owner	CAROL F LEHMANN 2146 E 3100 S WENDELL, ID 83355 (208)536-6775

Priority Date: 09/07/1973

Basis: License

Status: Superseded by Decree

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

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	3/15 to 11/15	0.960 CFS	252.00 AF
<u>Total Diversion:</u>		0.960 CFS	252.00 AF

Location of Point(s) of Diversion

GROUND WATER	NE1/4NE1/4	Sec. 9,	Twp 08S,	Rge 14E, B.M.
GOODING County				

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	
08S	14E	3									20.0	5.0							25.0
08S	14E	4													8.0		30.0		38.0

Total Acres: 63

Conditions of Approval:

- 016 See remarks for additional conditions of approval.

Remarks:

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OCT 6 7 2003

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 36-7377A

1. General TRANS. 3145.
THIS RT. WHEN COMBINED WITH RT. 36-7547 SHALL NOT EXCEED 329 AC. OF IRR. NOR
DIVERT MORE THAN 1316 AF/ANNUM.

Comments:

1. scurtis 5/2/2002 8:46:09 AM Water Right
Comment: Water Right No(s) 36 7377A superseded by Decree No(s) 36 7377D , 36 7377F , 36 7377G , 36 7377H ,

Dates and Other Information:

Licensed Date: 9/11/1985
Decreed Date:
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:
Judicial District:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

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OCT 6 7 2003