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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 36-07365

Case No. 39576)

ORDER AMENDING IRRIGATION PERIOD OF USE ELEMENT
IN PARTIAL DECREE AND INCORPORATING INTO PARTIAL
DECREE AN EXPRESS STATEMENT REGARDING GENERAL
PROVISIONS, *NUNC PRO TUNC*

A *Partial Decree* was entered for the above-captioned irrigation water right on January 15, 1998. 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, 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 recommendation and the time period for filing objections has now expired.

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

PERIOD OF USE: 04-01 10-31

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 any 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 August 27, 2001

Roger Burdick

ROGER BURDICK

Presiding Judge

Snake River Basin Adjudication

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Important Information About Your Water Right

August 27, 2001

CHRISTINE F SCARROW
JIM D SCARROW
3184 S 1900 E
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 and Incorporating into Partial Decree An Express Statment Regarding General Provisions, Nunc Pro Tunc* (hereinafter "*Order*") for water right number 36-07365. 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 January 15, 1998, 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 the 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 the same date that the *Partial Decree* was originally issued.

Sincerely,



Diana Delaney
Case Administrator

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 4523
WATER RIGHT NO. 36-07365B

This is to certify that: JIM D SCARROW
CHRISTINE SCARROW
3184 S 1900 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>
STOCKWATER	01/01 to 12/31	0.33 CFS	69.2 AF
COMMERCIAL	01/01 to 12/31	0.02 CFS	2.8 AF
	Totals	0.33 CFS	72.0 AF

SOURCE

GROUNDWATER

Priority: 08/10/1973

LOCATION OF POINT(S) OF DIVERSION:

SWSW , Sec. 11, Township 08S, Range 15E
SESW , Sec. 11, Township 08S, Range 15E
GOODING County

PLACE OF USE: STOCKWATER

TWN RGE SEC

08S 15E 11 SWSW SESW

PLACE OF USE: COMMERCIAL

TWN RGE SEC

08S 15E 11 SWSW

CONDITIONS OF APPROVAL AND REMARKS

1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
2. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.

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TRANSFER NO. 4523
WATER RIGHT NO. 36-07365B

CONDITIONS OF APPROVAL AND REMARKS

3. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.
4. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
5. The total instantaneous diversion of water from all points of diversion under Transfer No. 4523 shall not exceed 0.33 cfs, nor total combined annual volume of 72.0 af.
6. Prior to the diversion and use of water under this approval, the right holder shall install and maintain a measuring device on each point of diversion associated with the dairy and shall annually report the amount of water diverted to the department. The right holder shall obtain prior approval of the department relative to the type of measuring device.
7. Use of groundwater for irrigation of 18 acres located within the NESW, NWSW and SWSW, S09, T08S, R15E under Right No. 36-07365A shall cease and be replaced by surface water shares from North Side Canal Co. used previously on 18 acres within SW, S11, T08S, R15E. The 18 irrigated acres located within SW, S11, T08S, R15E and previously irrigated with North Side Canal Co. shares shall cease to be irrigated entirely.
8. The remainder of License No. 36-07365 is identified as 36-07365A and is limited to a diversion rate of 1.12 cfs, an annual volume of 248.0 af and irrigation of 62.0 acres each year.
9. Prior to use of water for irrigation purposes under Right No. 36-07365A, the right holder shall install a measuring device to measure the amount of water diverted and shall annually report the diversion to the department. The right holder shall obtain prior approval from the department of the type of measuring device to install.
10. Use of water under Transfer No. 4523 shall comply with applicable water quality standards of the Division of Environmental Quality of the Idaho Department of Health and Welfare.
11. The right holder shall not use water under this approval for a dairy operation larger than 1,500 milking cows, 300 dry cows and 1,200 head of replacement calves and heifers.
12. Commercial use is for a dairy.

Dated this 28th day of September, 1995.


Chief, Water Alloc. Bureau

OCT 03 1995

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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 36-07365

1993 JUN 15 PM 12:13

NAME & ADDRESS: JOE M DORAMUS
ALICE L DORAMUS
2128 E 3200 S
WENDELL ID 83355

JIM D SCARROW
CHRISTINE F SCARROW
3184 S 1900 E
WENDELL ID 83355

SOURCE: GROUNDWATER

QUANTITY: 1.45 CFS
320.0 AFY

USE OF THIS RIGHT WITH RIGHT NO. 36-15080 AND WITH WATER
SUPPLIED BY THE NORTH SIDE CANAL CO. FOR USE ON THE PLACE
OF USE LISTED ABOVE IS LIMITED TO A COMBINED TOTAL DIVERSION
RATE OF 2.12 CFS

PRIORITY DATE: 08/10/1973

POINT OF DIVERSION: T08S R15E S09 SWNSW Within GOODING County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	Irrigation Season	1.45 CFS 320.0 AFY

PLACE OF USE:	IRRIGATION	Within GOODING County
	T08S R15E S09	NESW 33 NWSW 40 SWSW 33
	106 ACRES TOTAL	

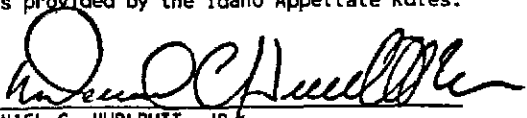
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 80 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
USE OF THIS RIGHT WITH RIGHT NO. 36-15080 AND WITH WATER
SUPPLIED BY THE NORTH SIDE CANAL CO. ON THE PLACE OF USE LISTED
ABOVE IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 106
ACRES IN A SINGLE IRRIGATION SEASON.

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

A MEASURING DEVICE OF A TYPE APPROVED BY IDWR SHALL BE
MAINTAINED AS A PART OF THE DIVERTING WORKS.

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 36-07365

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Water Right Report 36-7365A

WATER RIGHT NUMBER: 36-7365A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	JOE M DORAMUS C/O JERIE HANSEN 8660 E 24TH ST TUCSON, AZ 85710-7206 (520)546-7604
Current Owner	CHRISTINE F SCARROW 3148 S 1900 E WENDELL, ID 83355 (208)536-2374
Current Owner	JIM D SCARROW 3184 S 1900 E WENDELL, ID 83355 (208)536-2374
Current Owner	ALICE L DORAMUS C/O JERIE HANSEN 8660 E 24TH ST TUCSON, AZ 85710-7206 (520)546-7604

Priority Date: 08/10/1973

Basis: Decreed

Status: Active

Source

Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 10/31	1.120 CFS	248.00 AF
	Total Diversion:	1.120 CFS	248.00 AF

Location of Point(s) of Diversion

GROUND WATER SW1/4NW1/4SW1/4 Sec. 9, Twp 08S, Rge 15E, B.M.
GOODING County

Place of Use

IRRIGATION

Twp	Rge	Sec	<u>NE</u>				<u>NW</u>				<u>SW</u>				<u>SE</u>				
			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>Totals</u>
08S	15E	9									33.0	40.0	33.0						106.0

Total Acres: 106

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Conditions of Approval:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 36-7365A

1. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. C18 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. SECTION 42-1412(6), IDAHO CODE.
3. S17 USE OF THIS RIGHT IS COMBINED WITH WATER FROM NORTH SIDE CANAL CO. LTD.

Remarks:

1. Place of Use - Irrigation THIS RIGHT IS LIMITED TO THE IRRIGATION OF 62 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH RIGHT NO. 36-15080 AND WITH WATER SUPPLIED BY THE NORTH SIDE CANAL CO. ON THE PLACE OF USE LISTED ABOVE IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 106 ACRES IN A SINGLE IRRIGATION SEASON.
2. Purpose of Use 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 OCTOBER 31 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.
3. Quantity USE OF THIS RIGHT WITH RIGHT NO. 36-15080 AND WITH WATER SUPPLIED BY THE NORTH SIDE CANAL CO. FOR USE ON THE PLACE OF USE LISTED ABOVE IS LIMITED TO A COMBINED TOTAL DIVERSION RATE OF 2.12 CFS

Comments:

1. WORSTELL 11/8/1991 COPIED FROM REMARKS

Comment: THE NW1/4SW1/4 IS OWNED BY JOE DORAMUS THE SW1/4SW1/4 IS OWNED BY JIM SCARROW

2. MBALDWIN 12/23/1994 TRANSFER NO. 4523

Comment: T#4523 filed on 11/28/94 proposes to add a diversion point, change nature of use to commercial dairy use for a portion of Right 36-07365, splitting it into parts A & B. Transfer is based on the SRBA Basin 36 Director's Report and the approved version will be stored under an X prefix pending the conclusion of the adjudication.

3. SSHERMAN 9/3/1999 ADDRESS CHANGE

Comment: ADDRESS CHANGE BY CLAIMANT LETTER.

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IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 36-7365A

Dates and Other Information:

Licensed Date:
Decreed Date: 8/27/2001
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:

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
2.12		106
Combined Water Rights: 36-7365A , 36-15080		

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