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Department of Water Resources

DISTRICT COURT-SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
SEP - 9 2003	
By _____	627 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 Case No. 39576 _____	)))))))	For Decreed Water Right 36-7304 (Split administratively into water rights 36-7304A and 36-7304B) 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>
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A *Partial Decree* was entered for water right 36-7304 ("decreed water right") on December 30, 1997. 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 multiple water rights designated as 36-7304A and 36-7304B ("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 irrigation period of use recommendations for the split water rights.¹ There are no outstanding objections to IDWR's recommendations. The Court finds that IDWR's recommendations for irrigation period of use for the split water rights are based on the irrigation period of use for the decreed water right.

¹ Some or all of these split water rights may have again been split or affected by administrative proceedings following the issuance of the *Supplemental Director's Report*. However, this *Order* only amends the *Partial Decree* that was issued for the decreed water right and addresses only those split rights that were contained in the *Supplemental Director's Report*. Administrative changes to the split rights, if any, that occurred following the issuance of the *Supplemental Director's Report* are not affected by this *Order* and are therefore not referenced.

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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: 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: September 9, 2003.


JOHN M MELANSON
Presiding Judge, pro tem
Snake River Basin Adjudication

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 4276
WATER RIGHT NO(S). 36-07304B/36-07304C

This is to certify that: **SOUTHFIELD DAIRY PARTNERSHIP**
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.

RIGHT NO. 36-07304B :

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
STOCKWATER	01/01 to 12/31	0.13 CFS	30.9 AF
COMMERCIAL	01/01 to 12/31	0.11 CFS	28.1 AF
SUBTOTAL:		0.24 CFS	59.0 AF

LOCATION OF POINT(S) OF DIVERSION:

NWNW , Sec. 24, Township 08S, Range 14E
GOODING County

PLACE OF USE: STOCKWATER

TWN RGE SEC

08S 14E 13	SWSW	SESW	
24	NENW	NWNW	SWNW
	SENW		

PLACE OF USE: COMMERCIAL

TWN RGE SEC

08S 14E 24	NWNW
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RIGHT NO. 36-07304C :

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
STOCKWATER	01/01 to 12/31	0.43 CFS	108.7 AF
COMMERCIAL	01/01 to 12/31	0.37 CFS	92.3 AF
SUBTOTAL:		0.80 CFS	201.0 AF

LOCATION OF POINT(S) OF DIVERSION:

NESE , Sec. 13, Township 08S, Range 14E
GOODING County

PLACE OF USE: STOCKWATER

TWN RGE SEC

08S 14E 13	SESW	NESE	
	SWSE		

PLACE OF USE: COMMERCIAL

TWN RGE SEC

08S 14E 13	NESE
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TOTAL:	1.04 CFS	260.0 AF
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TRANSFER NO. 4276
WATER RIGHT NO(S). 36-07304B/36-07304C

PRIORITY

02/23/1973

SOURCE

GROUNDWATER

CONDITIONS/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.
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. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.
6. The total instantaneous diversion of water from all points of diversion under Right No. 36-07304B shall not exceed 0.24 cfs, nor a total combined annual volume of 59.0 af.
7. The total instantaneous diversion of water from all points of diversion under Right No. 36-07304C shall not exceed 0.80 cfs, nor a total combined annual volume of 201.0 af.
8. The total instantaneous diversion of water from all points of diversion under Transfer No. 4276 shall not exceed 1.04 cfs, nor total combined annual volume of 260.0 af.
9. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
10. Commercial use is for dairy operation.
11. Stockwater use under Right No. 36-07304B is for 750 dairy cattle.
12. Stockwater use under Right No. 36-07304C is for 500 range and 2,600 dairy cattle.
13. Two points of diversion are located within both NESE, S13 and NWNW, S24, T08S, R14E.

Dated this 21st day of

February, 19 95

J. Glen Saylor
Chief, Water Alloc. Bureau

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MAR 23 1995

REC-1-1 2003

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 36-07304

1997 DEC 30 AM 9:42

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

NAME & ADDRESS: SOUTHFIELD DAIRY
3308 S 1600 E
WENDELL ID 83355

SOURCE: GROUNDWATER

QUANTITY: 6.24 CFS
1548.0 AFY

PRIORITY DATE: 02/23/1973

POINT OF DIVERSION: T08S R14E S13 NWSEW Within GOODING County
S24 NWNENE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	Irrigation Season	6.24 CFS 1548.0 AFY

PLACE OF USE:	IRRIGATION	Within GOODING County
	T08S R14E S13	SWSW 27 SESW 40
	S24	NENE 40 NWNE 40
		NENW 40 NWNW 40
	387 ACRES TOTAL	SWNE 40 SENE 40 SWNW 40 SENW 40

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

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IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 36-7304A

WATER RIGHT NUMBER: 36-7304A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	A N AMBROSE PO BOX 247 WENDELL, ID 83355 (208)536-5332

Priority Date: 02/23/1973

Basis: Decreed

Status: Active

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

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	3/15 to 11/15	5.200 CFS	1,288.00 AF
	<u>Total Diversion:</u>	5.200 CFS	1,288.00 AF

Location of Point(s) of Diversion

GROUND WATER	NW1/4NE1/4NE1/4	Sec. 24, Twp 08S, Rge 14E, B.M.
GOODING County		
GROUND WATER	NW1/4SE1/4SW1/4	Sec. 13, 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	13											27.0	36.0					63.0
08S	14E	24	40.0	40.0	40.0	40.0	26.0	10.0	32.0	31.0									259.0

Total Acres: 322

Conditions of Approval:

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

Remarks:

1. Place of Use USE OF THIS RIGHT WITH RIGHT NO. 36-07533A IS LIMITED TO THE IRRIGATION OF A
- Irrigation COMBINED TOTAL OF 376 ACRES IN A SINGLE IRRIGATION SEASON.

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IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 36-7304A

Comments:

1. ROBERTSO 7/14/1992 NAME STANDARD

Comment:

2. BALDWIN 1/11/1994 TRANSFER NO. 4276

Comment: T# 4276 filed on 12/22/93 proposes to add a diversion point, change place of use, change nature of use and split water right into Parts A, B & C. Part A being the unchanged portion and Parts B & C will be two different systems serving two separate dairies.

3. PSKAGGS 10/25/1994 TRANSFER PROCESSING

Comment: Transfer No. 4276 was processed using the right as recommended in the SRBA Director's Report for Basin 36. The approved versions of the right will be stored under an X prefix on the WR database pending the conclusion of the adjudication.

Dates and Other Information:

Licensed Date:

Decreed Date: 9/9/2003

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:

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State of Idaho
Department of Water Resources

Department of Water Resources
Southern District Office

WATER RIGHT LICENSE

License of Water Right No. 36-7304 Priority Feb. 23, 1973 Amount 6.24 cfs

THIS IS TO CERTIFY, that SAN TAN RANCHES
of Gooding, Idaho, has complied with the terms and conditions of Permit
No. 36-7304 issued pursuant to Application for Permit dated February 23, 1973,
and has submitted proof to the Department of Water Resources on March 15, 1976,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 6.24 cfs of water from a ground water source,
tributary to _____, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
<u>Irrigation</u>	from <u>March 15</u> to <u>Nov. 15</u>	at <u>6.24</u> cfs and	<u>1,548 acre feet or</u>
	from _____ to _____	at _____ cfs and	<u>4.0 af per acre</u>
	from _____ to _____	at _____ cfs and	
(both dates inclusive)			

Subject, however, to the condition that no more than 6.24 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
1,548 acre feet per year, said waters to be diverted within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 13 and
NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 24; Twp. 8 S, Rge. 14 E, B. M. in the County of Gooding

Description and location of place of use:

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
8 S	14 E	13											27	40					67
		24	40	40	40	40	40	40	40	40									320

Total number of acres irrigated 387

A measuring device of a type approved by this Department shall be permanently
maintained as part of the diverting works.

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho
Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use
herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 4 day of
November, 19 76.

Director

36-7304

36-7304