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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 36-02600

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

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.***

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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AUG 31 2002

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 36-02600

1993 JUN 15 AM 11:28

FILED
TWIN FALLS CO., IDAHO
FILED

NAME & ADDRESS: PERRY GILLETTE
JERRY GILLETTE
RANDY GILLETTE
750 W 745C N
PAUL ID 83347

SOURCE: GROUNDWATER

QUANTITY: 6.55 CFS

USE OF THIS RIGHT WITH RIGHT NO. 36-11412 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 6.55 CFS, A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 2168 AF.

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
COMBINED DIVERSION RATE OF 14.56 CFS, A TOTAL COMBINED ANNUAL
DIVERSION VOLUME OF 4432 AF. COMBINED RIGHT NOS.: 36-07046,
36-07435 & 36-11412.

PRIORITY DATE: 01/20/1965

POINT OF DIVERSION: T08S R22E S12 SWSWSE Within MINIDOKA County
S13 NENWSE
SENESEW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	Irrigation Season	6.55 CFS

PLACE OF USE:	IRRIGATION	Within MINIDOKA County		
T08S R22E S12	NENE 39	NWNE 37	SWNE 40	SENE 40
	NESW 37	NWSW 39	SWSW 35	SESW 38
	NESE 40	NWSE 40	SWSE 40	SESE 40
S13	NENE 40	NWNE 37	SWNE 40	SENE 37
	NENW 38	NWNW 39	SWNW 40	SENV 40
	NESW 40	NWSW 40	SWSW 36	SESW 39
	NESE 38	NWSE 40	SWSE 39	SESE 37
S14	NENE 23			
1108 ACRES TOTAL				

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 472 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON
AND WHEN COMBINED WITH RIGHT 36-11412 IS LIMITED TO 542 ACRES.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 1108 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 36-07046, 36-07435 AND
36-11412.

PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 36-02600

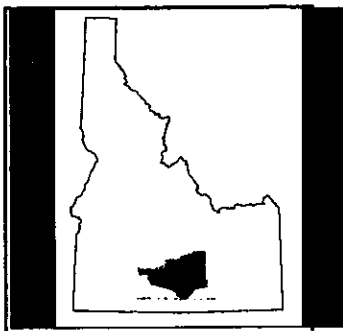
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DEC-29-1997

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OCT 15 2002

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MAR 11 2003



STATE OF IDAHO
WATER DISTRICT 130
C/O IDAHO DEPARTMENT OF WATER RESOURCES
1341 FILLMORE ST STE 200
TWIN FALLS ID 83301-3380
TELEPHONE NUMBER (208) 736-3033

IDWR DIRECTOR
KARL J. DREHER

February 21, 2003

BILLIE C VANDEVER
413 S 1250 W
HEYBURN ID 83336

RE: Expiration of Temporary Transfer No. 4855

Dear Mr. Vandever:

The transfer of water rights no. 36-2600B and 36-7435B, which authorized the irrigation of 38.2 acres within NWE and NENW Section 19, T10S R22E, expired on November 1, 2002. The rights have been returned to the previous place of use in Sections 12 and 13, T8S R22E.

Right nos. 36-2600B and 36-7435B are no longer valid, and the irrigation use has been recombined with the Gillette right nos. 36-2600 and 36-7435.

Irrigation during 2003 from your well in NWSW Section 18, T10S R22E will be limited to the 152 acres authorized under water right no. 36-7108. Unauthorized diversions from this well are subject to regulation by the Watermaster of Water District 130.

Please contact me or Jim Stanton at 208-736-3033 if you have any questions.

Regards,

Cindy Yenter
Watermaster
Water District 130

cc: Perry, Randy and Jerry Gillette
Ag Services of America
Magic Valley Ground Water District

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409 1 1 2003

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 36-2600B

WATER RIGHT NUMBER: 36-2600B

<u>Owner Type</u>	<u>Name and Address</u>
Lienholder	AG SERVICES OF AMERICA INC C/O CASEY ROBERTSON ELAM & BURKE PO BOX 1539 BOISE, ID 83701 (208)343-5454
Current Owner	BILLIE C VANDEVER 413 S 1250 W HEYBURN, ID 83336 (208)678-2779
Original Owner	JERRY B GILLETTE RT 2 BOX 2512 PAUL, ID 83347 (208)532-4558
Original Owner	RANDY GILLETTE PAUL, ID 83347
Original Owner	PERRY GILLETTE PAUL, ID 83347

Priority Date: 01/20/1965

Basis: DecreedStatus: See RemarksSourceTributary

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	0.180 CFS	52.00 AF
	<u>Total Diversion:</u>	0.180 CFS	52.00 AF

Location of Point(s) of Diversion

GROUND WATER	NW1/4SW1/4	Sec. 18, Twp 10S, Rge 22E, B.M.
MINIDOKA 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	
10S	22E	19																	38.2

Total Acres: 38.2

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MAR 11 2003

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 36-2600B

Conditions of Approval:

1. THE CHANGE AUTHORIZED UNDER TRANSFER 4855 IS TEMPORARY AND SHALL EXPIRE ON 11/1/2002 UNLESS A WRITTEN CONTRACT IS FILED WITH IDWR EXTENDING THE DEADLINE FOR USE OF THE RIGHTS BY VANDEVER. WHEN APPROVAL HAS EXPIRED THE RIGHTS WILL RETURN TO THEIR PREVIOUS USE WITH RIGHTS 36-7046 AND 36-11412.
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. 020 Use of water under this right may be affected by an agreement between the protestant and the right holder.
4. 067 The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
5. R64 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
6. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
7. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Remarks:

1. General Right 36-02600B is limited to the irrigation of 13.0 acres in the place of use described above in a single irrigation season. Right 36-07435B is limited to the irrigation of 25.2 acres in the place of use described above in a single irrigation season. Rights 36-02600B, 36-07435B and 36-07108 when combined shall not exceed a total diversion rate of 1.94 cfs, a total annual maximum diversion volume of 608.0 af at the field headgate, and the irrigation of 190.2 acres.
Rights 36-02600A, 36-07435A, 36-07046 and 36-11412 when combined shall not exceed a total diversion rate of 14.03 cfs, a total annual maximum diversion volume of 4279.2 af at the field headgate, and the irrigation of 1069.8 acres.
The acres which are no longer authorized for irrigation are specifically described as follows: 6.6 acres in NWNE, 5.6 acres in SWNE, 4.5 acres in NESW, 2.5 acres in NWSE and 6.0 acres in SWSE, S12, and 6.5 acres each in SWNW and NWSW, S13, T08S, R22E.
The change authorized under Transfer 4855 is temporary and shall expire on November 1, 2002 unless a written contract is filed with the department extending the period of use. When the approval has expired the rights will return to their previous use with Rights 36-07046 and 36-11412.
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 NOVEMBER 1 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.

Comments:

1. pskaggs 2/12/2003 Transfer Expired

Comment: The change authorized under Transfer 4855 (66280) was temporary and expired on November 1, 2002 since a written contract was not filed with the department extending the period of use. When the approval expired the rights were returned to their previous use (Parts A & B recombined-See 36-2600) with Rights 36-07046 and 36-11412.

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MAR 1 2003

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 36-2600B

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:
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

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4/29/2003

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 36-2600A

WATER RIGHT NUMBER: 36-2600A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	PERRY GILLETTE 750 W 745C N PAUL, ID 83347 (208)532-4558
Current Owner	RANDY GILLETTE 751 W 900 N PAUL, ID 83347 (208)532-4138
Current Owner	JERRY GILLETTE 750 W 745C N PAUL, ID 83347 (208)532-4558

Priority Date: 01/20/1965

Basis: Decreed

Status: See Remarks

SourceTributary

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	6.370 CFS	
	<u>Total Diversion:</u>	6.370 CFS	

Location of Point(s) of Diversion

GROUND WATER

NE1/4SW1/4

Sec. 13, Twp 08S, Rge 22E, B.M.

MINIDOKA 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	22E	12	39.0	30.4	34.4	40.0					32.5	39.0	35.0	38.0	40.0	37.5	34.0	40.0	439.8
08S	22E	13	40.0	37.0	40.0	37.0	38.0	39.0	33.5	40.0	40.0	33.5	36.0	39.0	38.0	40.0	39.0	37.0	607.0
08S	22E	14	23.0																23.0

Total Acres: 1069.8

Conditions of Approval:

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SEP 1 2003

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 36-2600A

1. THE CHANGE AUTHORIZED UNDER TRANSFER 4855 IS TEMPORARY AND SHALL EXPIRE ON 11/1/2002 UNLESS A WRITTEN CONTRACT IS FILED WITH IDWR EXTENDING THE DEADLINE FOR USE OF THE RIGHTS BY VANDEVER. WHEN APPROVAL HAS EXPIRED THE RIGHTS WILL RETURN TO THEIR PREVIOUS USE WITH RIGHTS 36-7046 AND 36-11412.
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. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
4. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

Remarks:

1. General THIS WR IS EXPANDED UNDER CLAIM A36-11412.
2. General THIS RIGHT IS LIMITED TO THE IRRIGATION OF 459 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
RIGHT NO. 36-11412 IS AN EXPANSION OF THIS RIGHT PURSUANT TO IDAHO CODE 42-1416(2).
THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 36-11412, 36-07435A & 36-07046.
USE OF THIS RIGHT WITH RIGHT NO. 36-11412 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 6.37 CFS, A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 2116 AF, A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 1587 AF, AND TO THE IRRIGATION OF A COMBINED TOTAL OF 529 ACRES IN A SINGLE IRRIGATION SEASON.
USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 14.03 CFS, A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 4279.2 AF, A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 3209.4 AF, AND TO THE IRRIGATION OF A COMBINED TOTAL OF 1069.8 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 36-07046, 36-07435A & 36-11412.
3. 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 NOVEMBER 1 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.

Comments:

1. pskaggs 2/10/2003 Transfer Expired

Comment: The change authorized under Transfer 4855 (66280) was temporary and expired on November 1, 2002 since a written contract was not filed with the department extending the period of use. When the approval expired the rights were returned to their previous use (Parts A & B recombined-See 36-2600) with Rights 36-07046 and 36-11412.

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MAY 1 1 2003

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 36-2600A

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:
Owner Name Connector: OR
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

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MAR 11 2003