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CLERK OF DISTRICT COURT
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

	)	Water Right 36-02493D
In Re SRBA	)	
	)	ORDER AMENDING IRRIGATION PERIOD OF USE
	)	ELEMENT IN PARTIAL DECREE and
Case No. 39576	)	INCORPORATING INTO PARTIAL DECREES AN
	)	EXPRESS STATEMENT REGARDING GENERAL
	)	PROVISIONS, <i>NUNC PRO TUNC</i>

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, on June 24, 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 this water right. No objections were filed to this *Supplemental Director's Report*

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

PERIOD OF USE: 04-01 to 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.

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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 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 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 December 5, 2001.



ROGER BURDICK
Presiding Judge
Snake River Basin Adjudication

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MAY 21 2002

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5357

WATER RIGHT NO(S). 36-02493F/36-07681B/36-10407/36-10408

This is to certify that: FLEMING FAMILY PARTNERSHIP
DBA FLEMING DAIRY
BILL C FLEMING
1740A E 3600 S
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. 36-02493F :			
Priority: 06/28/1961			
STOCKWATER	01/01 to 12/31	0.02 CFS	3.6 AF
COMMERCIAL	01/01 to 12/31	0.02 CFS	3.6 AF
		0.02 CFS	3.6 AF
Right No. 36-07681B :			
Priority: 02/14/1977			
STOCKWATER	01/01 to 12/31	0.08 CFS	15.9 AF
COMMERCIAL	01/01 to 12/31	0.08 CFS	15.9 AF
DOMESTIC	01/01 to 12/31	0.04 CFS	1.2 AF
		0.08 CFS	15.9 AF
SUBTOTAL:			15.9 AF *
Right No. 36-10407 :			
Priority: 01/01/1945			
STOCKWATER	01/01 to 12/31	0.05 CFS	1.2 AF
DOMESTIC	01/01 to 12/31	0.04 CFS	1.2 AF
		0.05 CFS	1.2 AF
Right No. 36-10408 :			
Priority: 08/01/1978			
STOCKWATER	01/01 to 12/31	0.04 CFS	1.2 AF
DOMESTIC	01/01 to 12/31	0.04 CFS	1.2 AF
		0.04 CFS	1.2 AF
TOTAL:			
	** 0.19 CFS		18.3 AF **

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MAY 19 2000

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TRANSFER NO. 5357
WATER RIGHT NO(S) . 36-02493F/36-07681B/36-10407/36-10408

SOURCE

GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION:

SESESW , Sec. 31, Township 08S, Range 15E
SWSWSE , Sec. 31, Township 08S, Range 15E
GOODING County

PLACE OF USE: STOCKWATER

TWN RGE SEC

08S 15E 31 SESW

PLACE OF USE: COMMERCIAL & DOMESTIC, same as STOCKWATER use

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this approval shall comply with applicable water quality standards of the Division of Environmental Quality of the Idaho Department of Health and Welfare.
2. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
3. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
4. 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.
- ** 5. The total instantaneous diversion of water from all points of diversion under Transfer 5357 shall not exceed 0.19 cfs, nor a total combined annual volume of 18.3 af.
- * 6. Rights 36-02493F and 36-07681B when combined shall not exceed a total annual maximum diversion volume of 15.9 af.
7. The quantity of water decreed for Rights 36-10407 & 36-10408 for domestic and stockwater uses is not a determination of historical beneficial use and shall not exceed 13,000 gallons per day.
8. Pursuant to Section 42-1412(6), Idaho Code, Rights 36-02493F and 36-07681B are subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
9. Domestic use is for 1 home each under Rights 36-07681B, 36-10407 and 36-10408.

Dated this 4th day of May, 2000

[Signature]
Chief, Water Allocation Bureau

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MAY 19 2000

MAY 21 2001

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 36-02493D

1998 JAN 15 AM 11:25

DIST. COURT, SRBA
TWIN FALLS CO., IDAHO
FILED

NAME & ADDRESS: PAMELA FLEMING
BILL C FLEMING
1740-A E 3600 S
WENDELL ID 83355

SOURCE: GROUNDWATER

QUANTITY: 0.26 CFS

USE OF THIS RIGHT WITH RIGHT NO. 36-07681 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 1.24 CFS AND A TOTAL COMBINED
DIVERSION VOLUME OF 248 AF.

PRIORITY DATE: 06/28/1961

POINT OF DIVERSION: T08S R15E S31 NWSESE Within GOODING County

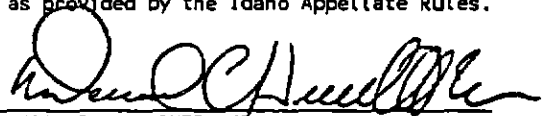
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	Irrigation Season	0.26 CFS

PLACE OF USE: IRRIGATION Within GOODING County
T09S R15E S06 Lot 1 (NENE) 5 Lot 2 (NWNE) 10
15 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 36-07681 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 62 ACRES 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

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 36-2493F

COMMERCIAL same as STOCKWATERConditions of Approval:

1. 081 Use of water under this approval shall comply with applicable water quality standards of the Division of Environmental Quality of the Idaho Department of Health and Welfare.
2. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
3. 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.
4. T17 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.

Remarks:

1. General The total instantaneous diversion of water from all points of diversion under Transfer 5357 shall not exceed 0.19 cfs, nor a total combined annual volume of 18.3 af.
The quantity of water decreed for Rights 36-10407 & 36-10408 for domestic and stockwater uses is not a determination of historical beneficial use and shall not exceed 13,000 gallons per day.
Rights 36-02493F and 36-07681B when combined shall not exceed a total annual maximum diversion volume of 15.9 af.
Pursuant to Section 42-1412(6), Idaho Code, Rights 36-02493F and 36-07681B are subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
Domestic use is for 1 home each under Rights 36-07681B, 36-10407 and 36-10408.

Comments:

1. BAUMHOFF 9/16/1991 COPIED FROM REMARKS
Comment: SEE TRANS. 3169.
2. WORSTELL 8/14/1992 SPLIT FROM 36-02493A
Comment:
3. PSKAGGS 5/4/2000 TRANSFER 5357
Comment: Transfer 5357 adds/changes the points of diversion under Rights 36-10407 & 36-10408, and adds/changes the points of diversion & changes the place, nature & season of use under a portion of Rights 36-02493D (E & F) & 36-07681 (A & B) splitting each right.

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MAY 2 2003