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2001 DEC -4 PM 4: 29

DIST. CLERK  
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     | ) | Water Right 36-02286A                   |
|                | ) |                                         |
|                | ) | 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 December 29, 1997. 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: 03-15 to 11-15

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~~<sup>29</sup> 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*.

2001 DEC  
TWIN FALLS CO., IDAHO  
FILED

#### 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 4, 2001.



ROGER BURDICK  
Presiding Judge  
Snake River Basin Adjudication

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OCT 17 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 )  
Case No. 39576 )  
\_\_\_\_\_ )

PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 36-02286A

1997 DEC 29 PM 3:01

DISTRICT COURT - SRBA  
TWIN FALLS, IDAHO

NAME & ADDRESS: MARVIN E ALLRED  
1543 E 3050 S  
WENDELL ID 83355

SOURCE: GROUNDWATER

QUANTITY: 0.15 CFS  
32.0 AFY

PRIORITY DATE: 06/24/1955

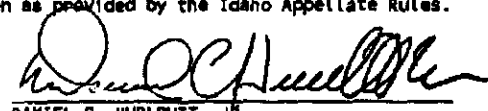
POINT OF DIVERSION: T08S R14E S02 NESE Within GOODING County

|                               |                              |                                    |                                  |
|-------------------------------|------------------------------|------------------------------------|----------------------------------|
| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE<br>IRRIGATION | PERIOD OF USE<br>Irrigation Season | QUANTITY<br>0.15 CFS<br>32.0 AFY |
|-------------------------------|------------------------------|------------------------------------|----------------------------------|

|               |                                              |                                        |
|---------------|----------------------------------------------|----------------------------------------|
| PLACE OF USE: | IRRIGATION<br>T08S R14E S02<br>8 ACRES TOTAL | Within GOODING County<br>NESE 4 NWSE 4 |
|---------------|----------------------------------------------|----------------------------------------|

RULE 54(b) CERTIFICATE

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DANIEL C. HURLBUTT, JR.  
PRESIDING JUDGE  
Snake River Basin Adjudication

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OCT 17 2002



## State of Idaho

### DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

May 17, 1999

Irene Vander Vegt  
76 East 400 South  
Jerome ID 83355

Re: Water Right no. **36-02286A**

Dear Ms. Vander Vegt:

Enclosed is a letter sent last week to Mr. Marvin Allred. Mr. Allred called to inform me that you purchased his farm last fall. (I checked with our Southern office, and they have the change of ownership form, but have not yet processed it.)

Measurement records indicate that one of the two wells previously owned by Mr. Allred has diverted more volume than authorized by existing water rights for three of the past four years. My measurements in 1995 indicate the well also diverts a flow rate about 5 times more than authorized by the right. The letter to Mr. Allred requested that he advise us of what action will be made to correct the discrepancy regarding diversion volume.

I understand that you have probably not operated the system during the last four years, and therefore are not responsible for these diversions. However, since the well diverts at such a high rate of flow, I believe it is easy to apply more water than necessary, and maybe the system should be operated more conservatively to prevent over-application. Please understand that due to the history of excessive diversions from this well, the department will continue monitoring the situation.

If you have specific questions regarding this matter, please contact me at 327-7898.

Sincerely,

Scott King  
Water Distribution Section

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11 11 2002



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

May 14, 1999

Marvin Allred  
1543 E 3050 S  
Wendell ID 83355

Re: Potential Diversion of Volume in Excess of Authorization  
Water Rights: **36-02286A**  
Point Of Diversion: T08S R14E Sec 02 NENWSE

Dear Mr. Allred:

Staff from the Idaho Department of Water Resources (department) measured the flow and power demand of the above referenced 20-hp well in 1995. Since 1995, you have cooperated with the department and/or a local groundwater district in providing certain information that allows us to annually estimate the diversion of water from this well. Over the past several years you may have received several reports like the one attached to this letter which summarizes field measurements and annual water use estimates for 1996. This report also describes your points of diversion and identifies your water rights.

You will note from review of the attached report that there may be a discrepancy between the maximum measured rate of diversion and volume from the above referenced well and the maximum rate of flow and volume authorized by your water right. Our review of the base right 36-02286 shows that the licensed right was split into parts A & B. A partial decree has already been issued by the adjudication court for these rights. The original claim was filed for 1.6 cfs (cubic feet per second) and 84 acres. After the split, 36-02286A ("part A") was decreed at 0.15 cfs for irrigation of 8 acres. Total diversion volume for this right is 4 acre-feet per acre per annum (afa), for a total volume of 32 acre-feet per year.

36-02286B ("part B") was decreed at 1.45 cfs for irrigation of 76 acres. Rights 36-02286B and 36-07582 together authorize a total 2.45 cfs for irrigation of 138 acres. These rights are diverted from a different well than 36-02286A.

36-02286A authorizes an application rate of 0.019 cubic feet per second per acre. An application of 0.02 cfs per acre is the statutory water duty in Idaho. (This amount, 0.02 cfs, is often referred to as one "inch.") The measurement reports that you submitted to the department for 1995 and 1996 shows that the ground water diverted from the 20-hp well was used to irrigate about 9 acres.

In 1995, department staff made well measurements. The 20-hp well was delivering 0.77

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cfs (equivalent to 344 gpm or 38.5 inches) to solid set hand line sprinklers irrigating 2 corners. The system was described to alternate between watering one of the two corner sets at a time. The pump also had a power demand of 18.7 kW. These flow and power measurements indicate that the pumping system requires 295 kWh to divert 1 acre-foot of water.

Energy consumption data was used to estimate annual volume diverted:

| <u>Year</u> | <u>Diverted Volume (acre-feet)</u> |
|-------------|------------------------------------|
| 1995        | 27                                 |
| 1996        | 38                                 |
| 1997        | 41                                 |
| 1998        | 44                                 |

The department's measured rate of 0.77 cfs is a very high rate for irrigation of 8 acres. Perhaps this pump was designed to irrigate a larger parcel.

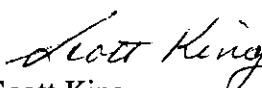
Estimated annual diversion volume exceeded the authorized amount of 32 acre-feet in 3 of the past 4 years. This record shows the 20-hp system diverted from 3.4 to 5.5 acre-feet per acre per year. In comparison, the 150-hp pump and pivot annually diverted from 1.6 to 2.1 acre-feet per acre (which is much closer to observed average application in your area).

The purpose of this letter is to notify you about certain discrepancies between your water use and the water right(s) referenced in this letter. Specifically, the department is concerned that you may be diverting more volume than authorized and at a rate significantly exceeding the authorized rate. If you believe we are not correct or that we have overlooked identifying certain water rights, please contact our office.

If you agree with our analysis and identification of water rights, then you must contact our office in writing by June 10 and advise us of what action you will take to correct the discrepancy regarding diversion volume. In your case, there is a possibility that this matter could be corrected by operating the existing system fewer hours. Failure to timely respond to this inquiry may result in the department taking enforcement action.

If you have specific questions regarding this matter, please contact Tim Luke, Scott King, Burke Scholer or Cindy Hodges at 327-7900.

Sincerely,

  
Scott King  
Water Distribution Section

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OCT 17 2002

05/11/99

Idaho Department of Water Resources  
Report of 1996 Diversions

TO: ALLRED, MARVIN E

The Idaho Department of Water Resources has published a report of water measurement results in Administrative Basin 36 for 1995 and 1996. The report documents measurements of water diversions, including maximum diversion rate and volume diverted during 1996. Our records show that the diversions listed below are owned and/or managed by you. The water measurement report includes these diversions and the measurements reported for 1996 as shown.

The diversions listed below includes only those that have been found to exceed the rate of diversion and/or volume authorized by your water right(s), and may not be a complete listing of your diversions.

Please carefully review the data provided below. If it is incorrect or inaccurate, your immediate notification is requested. If you have questions, concerns, or comments about this summary, please call either Scott King, Cindy Hodges, Burke Scholer, or Tim Luke at (208) 327-7907.

| Name             | T   | R   | S | Q      | Q  | I  | D   | D    | M    | WATER RIGHT DATA |           |           |            |
|------------------|-----|-----|---|--------|----|----|-----|------|------|------------------|-----------|-----------|------------|
|                  |     |     |   |        |    |    |     |      |      | Measure          | Flow Rate | Volume    | Authorized |
|                  |     |     |   |        |    |    |     |      |      | Flow rate        | Flow rate | Volume    | Volume     |
|                  |     |     |   |        |    |    |     |      |      | (cfs)            | (cfs)     | (Acre-ft) | (Acre-ft)  |
| ALLRED, MARVIN E | 08S | 14E | 2 | NENWSE | 20 | HP | PCC | 0.77 | 38.3 | 1                | 0.15      | 32.0      |            |

Water Right Number(s): 36-02286A

\*Qualifier explanation: 1 = Simple systems where power records should work well; flow rate and power consumption should not fluctuate significantly.

ALLRED, MARVIN E

08S 14E 2 SENESE

150 HP

PCC

1.87

243.8

1

2.45

552.0

Water Right Number(s): 36-022868 36-07582

\*Qualifier explanation: 1 = Simple systems where power records should work well; flow rate and power consumption should not fluctuate significantly.

The water right rate of diversion and volume listed above may represent a combined authorized rate of diversion and volume where multiple rights are diverted from one point of diversion.

RECORDED  
INDEXED  
OCT 17 2002