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MAR - 8 2002

Department of Water Resources

2002 MAR -7 PM 3:59
DISTRICT COURT - TWIN FALLS
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

Case No. 39576

)
)
)
)
ORDER OF PARTIAL DECREE

For Water Right 36-02070J

On January 22, 2002, a *Second Special Master's Report and Recommendation* was filed for the above water right. No Challenges were filed to the *Second Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Second Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 36-02070J is hereby decreed as set forth in the attached *Amended Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED 3/7/02



ROGER S. BURDICK

Presiding Judge

Snake River Basin Adjudication

RECEIVED

1997 SEP -9 AM 9: 49

SEP 16 1997

Department of Water Resources
Adjudication Bureau

DISTRICT COURT-SRBA
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

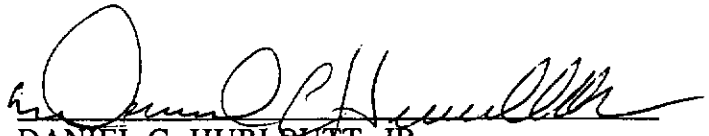
In Re SRBA	)	ORDER OF PARTIAL DECREE
	)	
Case No. 39576	)	For Water Right 36-02070J
_____	)	

On June 24, 1997, a *Special Master's Report and Recommendation* was filed for the above water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 14a, this court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 36-02070J be decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED September 9, 1997.


DANIEL C. HURLBUTT, JR.
Presiding Judge
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

~~AMENDED~~

In Re SRBA)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 36-02070J

2002 MAR -7 PM 3:59

DISTRICT COURT-SRBA
TWIN FALLS CO, IDAHO
FILED _____

NAME AND ADDRESS: MACK W NEIBAUR
511 W 1200 N
PAUL, ID 83347

SOURCE: GROUNDWATER

QUANTITY: 4.29 CFS
1240.00 AFY

USE OF THIS RIGHT WITH RIGHT NOS. 36-02070K, 36-07529A AND
36-07529B IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 9.89
CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 2180 AF.

USE OF THIS RIGHT WITH RIGHT NO. 36-07529A IS LIMITED TO A
TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 1240 AF AT THE FIELD
HEADGATE.

PRIORITY DATE: 03/11/1948

POINT OF DIVERSION: T07S R23E S34 NENE Within Minidoka County
SESE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	4.29 CFS 1240.00 AFY

PLACE OF USE:	Irrigation		Within Minidoka County
	T07S R23E S34	NENE 36.0	NWNE 39.0
		SWNE 40.0	SENE 39.0
		NENW 39.0	NWNW 38.0
		SWNW 39.0	SENW 40.0
		NESW 40.0	NWSW 39.0
		NESE 39.0	NWSE 40.0
		SWSE 39.0	SESE 38.0
	545.0 Acres Total		

USE OF THIS RIGHT WITH RIGHT NO. 36-07529A IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 310 ACRES IN A SINGLE
IRRIGATION SEASON.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 310 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

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).

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.



Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

2002 MAR 07 PM 02:00
DISTRICT COURT - SRBA
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)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 36-02070J

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 36-02070J was mailed
on March 07, 2002, with sufficient first-class postage prepaid
to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

STATE OF IDAHO
Represented by:
CLIVE STRONG
NATURAL RESOURCES
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720-0010
Phone: 208-334-2400

MACK W NEIBAUR
Represented by:
WILLIAM T GOODMAN
717 - 7TH STREET
PO BOX D
RUPERT, ID 83350
Phone: 208-436-4774

CERTIFICATE OF MAILING

PAGE 1
03/07/02

MACK W NEIBAUR
511 W 1200 N
PAUL, ID 83347
Phone: 208-532-4175


ROBBIN GLATZ
Chief Deputy Clerk

CERTIFICATE OF MAILING

PAGE 2
03/07/02

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)
)

Water Right 36-02070J

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 September 09, 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, 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: 03-15 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 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
Presiding Judge
Snake River Basin Adjudication

Important Information About Your Water Right

August 27, 2001

MACK NEIBAUR
511 W 1200 N
PAUL, ID 83347

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 36-02070J. 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 September 09, 1997, 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

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 1777 SEP -9 AM 9:49

Water Right 36-02070J DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

NAME & ADDRESS: MACK NEIBAUR
RT 1 BOX 1478
PAUL ID 83347

SOURCE: GROUNDWATER

QUANTITY: 4.29 CFS

USE OF THIS RIGHT WITH RIGHT NO. 36-07529A IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 5.19 CFS, AND TO A TOTAL
COMBINED ANNUAL DIVERSION VOLUME OF 1240 AF.

PRIORITY DATE: 03/11/1948

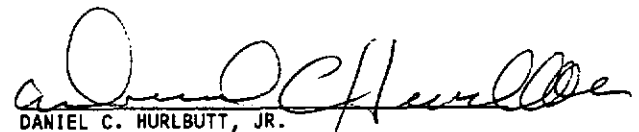
POINT OF DIVERSION: T07S R23E S34 SENENE Within MINIDOKA County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE IRRIGATION	PERIOD OF USE Irrigation Season	QUANTITY 4.29 CFS
-------------------------------	------------------------------	------------------------------------	----------------------

PLACE OF USE:	IRRIGATION T07S R23E S34	Within MINIDOKA County NENE 36 NENW 39	NWNE 39 NWNW 38	SWNE 40 SNNW 39	SENE 39 SENNW 40
	310 ACRES TOTAL				

USE OF THIS RIGHT WITH RIGHT NO. 36-07529A IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 310 ACRES IN A SINGLE
IRRIGATION SEASON.

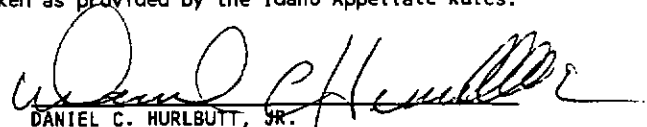
DATED: SEP 09 1997


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

RULE 54(b) CERTIFICATE

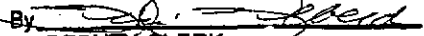
With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment 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: SEP 09 1997.


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

State of Idaho
County of Twin Falls ss.
I hereby certify the foregoing to be a full,
PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b) true and correct copy of the original on
Water Right 36-02070J file in the above entitled action.

ROBERT S. FORT
CLERK OF THE DISTRICT COURT

By 
DEPUTY CLERK

