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Department of Water Resources

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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 36-00086D                   |
|                | ) |                                         |
|                | ) | 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 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 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: 02-15 to 11-30

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).

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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 November 27, 2001.



\_\_\_\_\_  
ROGER BURDICK  
Presiding Judge  
Snake River Basin Adjudication

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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 )  
Case No. 39576 )  
\_\_\_\_\_ )

PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 36-000860

1997 DEC 29 PM 3:40

DISTRICT COURT - SRBA  
TWIN FALLS CO., IDAHO

NAME & ADDRESS: LONDON H SMITH  
MARGUERITTE S SMITH  
RT 1 BOX 226  
HAGERMAN ID 83332

SOURCE: WEATHERBY SPRINGS TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.06 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL  
NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 02/01/1888

POINT OF DIVERSION: T07S R14E S30 SENESW Within GOODING County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE   | PERIOD OF USE     | QUANTITY |
|-------------------------------|------------------|-------------------|----------|
|                               | IRRIGATION       | Irrigation Season | 0.06 CFS |
|                               | DOMESTIC 2 HOMES | 01-01 12-31       | 0.06 CFS |

PLACE OF USE: IRRIGATION Within GOODING County  
T07S R13E S25 NESW 3  
3 ACRES TOTAL

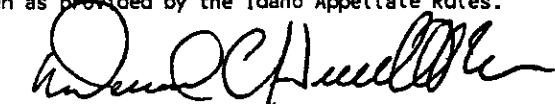
DOMESTIC Within GOODING County  
T07S R13E S25 NESW

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR  
DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

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

# SRBA

## SUBCASE SUMMARY REPORT 36-00086D

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SRBA  
12-21-2001

SUBCASE SUMMARY REPORT

HTML12

SUBCASE: 36-00086D      FILE#: 01491  
CLAIMANT: SMITH, LONDON H & MARGUERITTE

RT 1 BOX 226

HAGERMAN                      ID      83332

STATUS: PD ISSUED

WATER SOURCE: WEATHERBY SPRINGS, BILLINGSLEY CREEK

**\*\*\*\* PARTIES INVOLVED \*\*\*\***

LONDON H & MARGUERITTE SMI   C PRO SE

**\*\*\*\* ROA ENTRIES \*\*\*\***

|            |                                                                                           |            |
|------------|-------------------------------------------------------------------------------------------|------------|
| 12-29-1997 | PARTIAL DECREE FILED                                                                      | 12-29-1997 |
| 12-29-1997 | CERTIFICATE OF MAILING - PARTIAL DECREE                                                   |            |
| 08-05-1999 | SUPPLEMENTAL DIRECTOR'S REPORTS, RP 1, BASIN<br>36 PERIOD OF USE & CONJUNCTIVE MANAGEMENT |            |
| 11-27-2001 | AMEND PARTIAL - SEASON OF USE/CONJUNC MGMT                                                | 11-27-2001 |

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JAN 09 2002