

DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
STATE OF IDAHO

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Department of Water Resources

ROGER BURDICK
PRESIDING JUDGE
(208) 736-3011
FAX (208) 736-2121

SRBA CHAMBERS
P.O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

March 4, 2003

David Barber
Office of the Attorney General
P.O. Box 44449
Boise, Idaho 83720-0010

Amy S. Howe
United States Department of Justice
P.O. Box 32
Boise, Idaho 83707

James DuBois
Environmental and Natural Resource Division
United States Department of Justice
999 18th Street, Suite 945
Denver, Colorado 80202

Dear Counsel:

Enclosed is a copy of a letter and a draft form of a partial decree for INEEL water right 34-10901. Unfortunately the letter was addressed in error to Lee Leininger at the Department of Justice in Boise. I apologize for the error.

I have also included a copy of a draft submitted to the Court by Amy Howe. Please review in the context of the February 12, 2003, letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Wildman".

Eric Wildman
Staff Attorney
Snake River Basin Adjudication

EW:sb
Enc. (3)
IDWR

DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
STATE OF IDAHO



ROGER BURDICK
PRESIDING JUDGE
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SRBA CHAMBERS
P.O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

February 12, 2003

David Barber
Office of the Attorney General
P.O. Box 44449
Boise, ID 83720-0010

Lee Leininger
United States Department of Justice
550 W. Fort St., MSC 033
Boise, ID 83724

Re: Partial Decree for 34-10901/INEEL

Dear Gentlemen:

On January 31, 2003, for the reasons set forth on the record, Judge Burdick ordered that water right 34-10901 for INEEL be partially decreed *nunc pro tunc* in accordance with the terms of the July 1990 Agreement between the State of Idaho and the United States.

As you may be aware, when IDWR originally abstracted the water right claim, the entire agreement was abstracted. As such, there is no form of partial decree for the water right. Although all of the elements are set forth in the Agreement, a few lack specificity, such as a legal description of the boundaries of INEEL (place of use) and location of points of diversion.

Because the partial decree is pursuant to the Agreement, I would propose that the parties submit, for the Court's approval, an agreed upon proposal for a partial decree which comports with the Agreement to the satisfaction of the parties.

I put together and included a draft proposal that may be satisfactory excluding the information regarding points of diversion and the boundaries for place of use. However, feel free to modify as needed.

COPY

Please do not hesitate to call if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eric Wildman', with a stylized flourish at the end.

Eric Wildman
Staff Attorney
Snake River Basin Adjudication

EW:sb
Enc.
CC: IDWR

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 34-10901
)

NAME AND ADDRESS: UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
785 DOE PLACE
IDAHO FALLS, ID 83402

SOURCE: GROUNDWATER

QUANTITY: 80.00 CFS
35000.00 AFY

PRIORITY DATE: 04/07/1950

POINT OF DIVERSION:

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Federal Reserved Use	01-01 TO 12-31	80.00 CFS 35000.00 AFY

SEE OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION
OF THIS WATER RIGHT.

PLACE OF USE:

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

THIS WATER RIGHT IS A FEDERAL RESERVED WATER RIGHT BASED ON
FEDERAL LAW.

THIS WATER RIGHT INCORPORATES AND IS SUBJECT TO THE TERMS OF
THAT CERTAIN JULY 1990 AGREEMENT BETWEEN THE STATE OF IDAHO AND
THE UNITED STATES ENTITLED "WATER RIGHTS AGREEMENT BETWEEN THE
STATE OF IDAHO AND THE UNITED STATES FOR THE UNITED STATES
DEPARTMENT OF ENERGY."

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

IN THE DISTRICT COURT OF THE 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**
) **REPLACING LOST RECORD**
) **NUNC PRO TUNC**
)
) **For Water Right 34-10901**

On January 15, 1998, a Special Master's Partial Decree was filed for the above water right. No appeal was filed to the Partial Decree. The Order was subsequently lost.

THE DECREE set forth water rights based on an agreement between the State of Idaho and the United States Department of Energy:

POINTS OF DIVERSION MAY BE ANY POINT WITHIN THE
BOUNDARIES OF THE IDAHO NATIONAL ENGINEERING
LABORATORY (INEL). PLACE OF USE MAY BE ANY PLACE WITHIN
THE BOUNDARIES OF INEL. USE OF WATER IS FOR THE PRIMARY
PURPOSES AUTHORIZED BY CONGRESS FOR INEL.
THE STATE AND THE UNITED STATES MUTUALLY ASSURE AND
AGREE TO PROVIDE ACCESS AND COOPERATION FOR INSTALLATION
AND UTILIZATION OF MEASURING DEVICES NEEDED FOR
MANAGEMENT OF THE WATER RESOURCES ON INEL; PROVIDED,
HOWEVER, THAT ACCESS TO THE INEL WILL BE IN ACCORDANCE
WITH ALL FEDERAL LAWS AND REGULATIONS GOVERNING ACCESS
TO THE INEL. SEE AGREEMENT FOR FULL DESCRIPTION OF
MEASURING DEVICE REQUIREMENTS AND DATA SHARING.

1 Therefore, IT IS ORDERED that water right 34-10901 is hereby decreed nunc pro tunc as
2 set forth above pursuant to I.R.C.P. 60(b).

3 DATED January 21, 2003
4 NUNC PRO TUNC
5 January 15, 1998

6
7 ROGER S. BURDICK
8 Presiding Judge
9 Snake River Basin Adjudication
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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the ORDER OF PARTIAL DECREE
for WATER RIGHT 34-10901 was mailed on January __, 2003, with sufficient first class
postage prepaid to the following:

Director of IDWR
PO Box 83720
Boise, ID 83720-0098

James J. Dubois
Environment and Natural Resources Division
U.S. Department of Justice
999 18th Street, Suite 945
Denver, CO 80202

Marc Haws
Amy S. Howe
U.S. Attorney's Office
PO Box 32
Boise, ID 83707

David Barber
State of Idaho
Attorney General's Office
PO Box 44449
Boise, ID 83711-4449

Chief Deputy Clerk