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AUG 19 2002

Department of Water Resources

DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
STATE OF IDAHO



TERRENCE A. DOLAN
SPECIAL MASTER
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SRBA CHAMBERS
P.O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

August 1, 2002

S&S Partnership
1603 East, 1500 North
Terreton, Idaho 83450

Larry A. Brown
U.S. Department of Justice
Environment & Natural Resources Div.
550 West Fort Street, MSC 033
Boise, ID 83724

Re: Errors in Partial Decree
35-07605

Dear Folks:

A week ago, we received word from IDWR that the *Partial Decree* entered in subcase 35-07605 on February 4, 2002, contains errors in the place of use. You may recall that on November 12, 1998, S&S Partnership and the United States/BLM filed a *Stipulation to Resolve Objection* in subcase 35-07605. Enclosed is a copy of the description of 35-07605 attached to that *Stipulation*. Under the place of use, there are numerous underlines and strikeouts and the total acreage is 591 acres.

When the *Special Master Report and Recommendation* and then the *Partial Decree* were entered, the description of 35-07605 did not carry over those changes in the place of use even though the total acreage is the same – 591 acres. Enclosed is a copy of the water right as decreed.

To correct the error in the *Partial Decree*, I propose to file an amended Special Master report and recommendation explaining the error and recommending that the Presiding Judge enter an amended partial decree *nunc pro tunc* to correct what were essentially clerical errors under I.R.C.P. Rule 60(a).

Please let me know in writing no later than **Friday, September 6, 2002**, if you disagree with my solution. If I do not hear from you by then, I will assume you agree with my plan.

Sincerely,

A handwritten signature in cursive script, appearing to read "Terrence A. Dolan".

Terrence A. Dolan

C Nicholas B. Spencer and Don Shaff
IDWR

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: NOV-12-1998
PAGE: A-1

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 35-07605

NAME AND ADDRESS: S & S PARTNERSHIP
1603 E 1500 N
TERRETON ID 83450

S & S PARTNERSHIP
1603 EAST 1500 NORTH
TAMER ID 83429

SOURCE: GROUNDWATER

QUANTITY: 4.00 CFS

USE OF THIS RIGHT WITH RIGHT NO. 35-07586 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 6.41 CFS AND IS LIMITED TO A
TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 2364 AF.

PRIORITY DATE: 04/28/1976

POINT OF DIVERSION: T04N R35E S19 NESW Within JEFFERSON County

PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
IRRIGATION 04-01 11-01 4.00 CFS

PLACE OF USE: IRRIGATION Within JEFFERSON County

T04N R34E S24	SENE 40	NESE 40	SESE 40	
	SENE 39	NESE 39	SESE 39	
R35E S19	SWNE 40	LOS 2 (SWNW) 40	SENW 40	NESW 40
	SWNE 39	X61 1/2 (SWNW) 39	SENW 39	
	NWSW 40	SWSW 40	SESW 38	NWSE 34
	X61 1/3 (NWSW) 36	X61 1/6 (SWNW) 36	SESW 39	NWSE 33
S30	SENW 39	NWNW 40	SENW 40	SENW 40
	SENW 39	X61 1/3 (NWNW) 36	X61 1/2 (SWNW) 39	SENW 39
S29	NESE 7	NWSE 38	NENW 2	SWSE 6
591 ACRES TOTAL				

USE OF THIS RIGHT WITH RIGHT NO. 35-07586 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 591 ACRES IN A SINGLE
IRRIGATION SEASON.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 200 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

WTS
EMC

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: NOV-12-1998

PAGE: A-2

35-07605 (CONT.)

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

IN THE NEAR FUTURE IDWR WILL RECOMMEND A GENERAL PROVISION FOR THIS SUB-BASIN REGARDING THE INTERCONNECTION OF WATER RESOURCES WITHIN THE SNAKE RIVER BASIN. AN OPPORTUNITY WILL BE PROVIDED AT THAT TIME TO FILE AN OBJECTION WITH THE DISTRICT COURT TO THAT PROVISION. THIS WATER RIGHT WILL BE SUBJECT TO SUCH GENERAL PROVISIONS AS THE DISTRICT COURT DETERMINES NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF WATER RIGHTS.

EXPLANATORY MATERIAL:

BASIS OF CLAIM - LICENSE

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

RIGHT NO. 35-07586 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

DAE
Emc
WTS

IDWR concurs with this description of the elements of this water right.

Ernest Carlson
IDWR Representative

Date: Nov 12, 1998

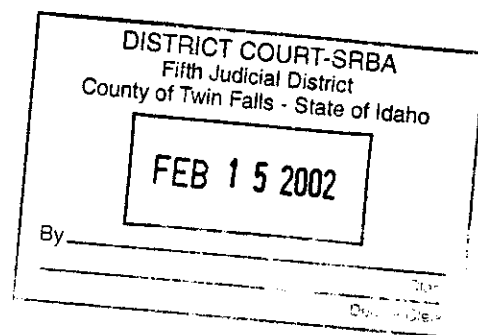
Wink Spencer
IDWR Attorney

Date: 11-12-98

Water Right No. 35-07605

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 35-07605



NAME AND ADDRESS: S & S PARTNERSHIP
1603 EAST 1500 NORTH
TERRETON, ID 83450

SOURCE: GROUNDWATER

QUANTITY: 4.00 CFS

USE OF THIS RIGHT WITH RIGHT NO. 35-07586 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 6.41 CFS AND IS LIMITED TO A
TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 2364 AF.

PRIORITY DATE: 04/28/1976

POINT OF DIVERSION: T04N R35E S19 NESW Within Jefferson County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	4.00 CFS

PLACE OF USE:	Irrigation	Within Jefferson County
	T04N R34E S24	SENE 28.0 NESE 39.0
		SESE 34.0
	R35E S19	NENE 7.0 NWNE 38.0
		SWNE 39.0 NENW 2.0
	LOT 02 (SWNW) 30.0	SENE 39.0
		NESW 40.0 LOT 03 (NWSW) 36.0
	LOT 04 (SWSW) 36.0	SESE 39.0
		NWSE 33.0 SWSE 6.0
	S30	NENW 40.0 LOT 01 (NWNW) 36.0
	LOT 02 (SWNW) 30.0	SENE 39.0
	591.0 Acres Total	

USE OF THIS RIGHT WITH RIGHT NO. 35-07586 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 591 ACRES IN A SINGLE
IRRIGATION SEASON.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 200 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