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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**

|                       |   |                                                |
|-----------------------|---|------------------------------------------------|
|                       | ) | <b>Water Right 57-07117</b>                    |
| <b>In Re SRBA</b>     | ) |                                                |
|                       | ) |                                                |
|                       | ) | <b>ORDER AMENDING IRRIGATION PERIOD OF USE</b> |
|                       | ) | <b>ELEMENT IN PARTIAL DECREE and</b>           |
| <b>Case No. 39576</b> | ) | <b>INCORPORATING INTO PARTIAL DECREES AN</b>   |
|                       | ) | <b>EXPRESS STATEMENT REGARDING GENERAL</b>     |
| _____                 | ) | <b>PROVISIONS, NUNC PRO TUNC</b>               |

A *Partial Decree* was entered for the above-captioned irrigation water right on December 15, 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 July 26, 1999, IDWR filed a *Supplemental Director's Report, Reporting Area 2, IDWR Basin 57, 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:           03-01 to 11-01  
The use of water for irrigation under this right may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water after November 1 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

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* 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 February 20, 2003



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ROGER BURDICK

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

In Re SRBA )  
 )  
Case No. 39576 )  
\_\_\_\_\_ )

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

Water Right 57-07117

1997 DEC 15 AM 10: 57

DISTRICT COURT - SRBA  
TWIN FALLS CO., IDAHO

FILED \_\_\_\_\_

NAME & ADDRESS: HAROLD A SIMPER  
MERRILAN M SIMPER  
PO BOX 367  
GRAND VIEW ID 83624

SOURCE: GROUNDWATER

QUANTITY: 4.88 CFS  
1165.5 AFY

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE  
SHALL NOT EXCEED 13,000 GALLONS PER DAY.  
USE OF THIS RIGHT WITH RIGHT NO. 57-04088 IS LIMITED TO A  
TOTAL COMBINED DIVERSION RATE OF 5.18 CFS.

PRIORITY DATE: 04/12/1974

POINT OF DIVERSION: T06S R03E S04 SWSWNW Within OWYHEE County  
LOT 4 (SENWNW) (INJECTION)  
T05S R03E S33 SWSWSE (REDIVERSION)  
T06S R03E S04 LOT 4 (SENWNW) (REDIVERSION)

POINT OF INJECTION INTO TWENTY MILE CREEK.  
POINT OF REDIVERSION FROM TWENTY MILE CREEK.

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE     | QUANTITY               |
|-------------------------------|----------------|-------------------|------------------------|
|                               | IRRIGATION     | Irrigation Season | 4.88 CFS               |
|                               | STOCKWATER     | 01-01 12-31       | 1165.5 AFY<br>0.05 CFS |

| PLACE OF USE: | IRRIGATION      | Within OWYHEE County |                |         |         |
|---------------|-----------------|----------------------|----------------|---------|---------|
|               | T05S R03E S33   | NESW 20              | SESW 36        | NWSE 20 | SWSE 24 |
|               | T06S R03E S04   | Lot 3 (NENW)37       | Lot 4 (NWNW)33 | SWNW 39 | SENW 40 |
|               | 249 ACRES TOTAL |                      |                |         |         |

Place of use for STOCKWATER is same as IRRIGATION

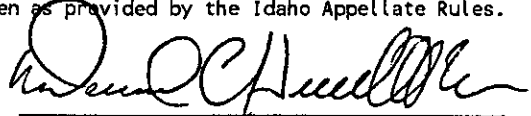
USE OF THIS RIGHT WITH RIGHTS LISTED ABOVE IS LIMITED TO THE  
IRRIGATION OF A COMBINED TOTAL OF 259 ACRES IN A SINGLE  
IRRIGATION SEASON.

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR  
STOCKWATER 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