

2003 JAN 3 PM 4 42

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 57-2114                     |
|                | ) |                                         |
|                | ) | 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 April 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 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:                      04-01 to 10-31

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 January 3, 2002.



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ROGER BURDICK

Presiding Judge

Snake River Basin Adjudication

## Important Information About Your Water Right

January 3, 2003

Ed Wilsey  
Carl Wilsey  
HCR 81  
Marsing, ID 83639

RECEIVED

JAN - 6 2003

Department of Water Resources

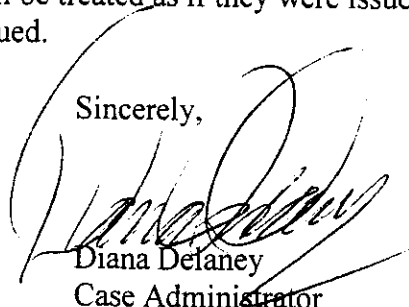
Dear Water Right Claimant(s):

This letter accompanies copies of an **Order Amending Irrigation Period of Use Element in Partial Decree, Nunc Pro Tunc** (hereinafter "**Order**") for water right numbers 57-2114, 57-4005, 57-7003, 57-7082, and 57-10893. According to Idaho Department of Water Resources (IDWR) records, you are the current owner of these water rights. 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 each of these water rights. As stated in the face of each **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). The **Order** also incorporates into the **Partial Decrees** an express statement that each **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). These **Orders**, in combination with the **Partial Decrees** that were issued for these water rights on April 29, 1997, set forth all of the elements of your water rights. The Snake River Basin Adjudication (SRBA) Court suggests that you keep these documents in a safe location together with a copy of each **Partial Decree** to show evidence of these water rights. The original of these **Orders** and the original of each **Partial Decree** for these water rights 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 **Orders** are entered **Nunc Pro Tunc**, meaning that the **Orders** will be treated as if they were issued on the same date that the **Partial Decrees** were originally issued.

Sincerely,



Diana Delaney  
Case Administrator

RECEIVED

MAY 1997

Department of Water Resources  
Adjudication Bureau

1997 APR 29 PM 2:33

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

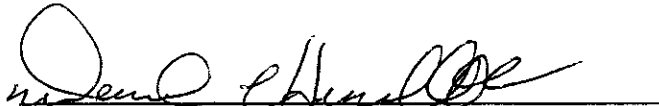
|                |   |                          |
|----------------|---|--------------------------|
| In Re SRBA     | ) | ORDER OF PARTIAL DECREE  |
|                | ) |                          |
| Case No. 39576 | ) | For Water Right 57-02114 |
| _____          | ) |                          |

On March 5, 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 57-02114 be decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED April 29, 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

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

PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 57-02114

FEB 29 29 PM 2:33  
DISTRICT COURT - SRB  
TWIN FALLS CO., IDAHO  
FILED

NAME & ADDRESS: ED WILSEY  
CARL WILSEY  
HCR 81  
MARSING ID 83639

SOURCE: MC BRIDE CREEK TRIBUTARY: SUCCOR CREEK  
LITTLE MC BRIDE CREEK MC BRIDE CREEK

QUANTITY: 1.72 CFS

USE OF THIS RIGHT WITH RIGHT NOS. 57-04005 AND 57-07003 IS  
LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 6.03 CFS.

PRIORITY DATE: 07/11/1918

POINT OF DIVERSION: T01S R05W S31 NWSE Within Owyhee County  
T02S R05W S05 SESE  
SENW

TWO POINTS OF DIVERSION LOCATED IN SENW, S05, T02S, R05W.

| PURPOSE AND PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE     | QUANTITY |
|----------------------------|----------------|-------------------|----------|
|                            | IRRIGATION     | Irrigation Season | 1.72 CFS |

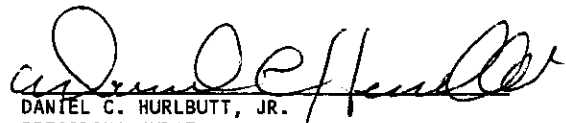
| PLACE OF USE: | IRRIGATION                                       | Within Owyhee County                  |
|---------------|--------------------------------------------------|---------------------------------------|
|               | T01S R05W S30                                    | SESW 2.0                              |
|               | S31                                              | NENW 15.0 SENW 19.0 NESW 4.0 NESE 1.0 |
|               | S32                                              | NWSE 5.0 SESE 14.0                    |
|               | S32                                              | SWSW 10.0                             |
|               | T02S R05W S05 Lot 3 (NENW) 2.0 Lot 4 (NWNW) 12.0 | SENW 2.0                              |
|               | 86.0 ACRES TOTAL                                 |                                       |

USE OF THIS RIGHT WITH RIGHT NOS. 57-04005, 57-07003, 57-07082  
AND 57-10893 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL  
OF 301.5 ACRES IN A SINGLE IRRIGATION SEASON.

CONSUMPTIVE USE:

USE OF THIS RIGHT WITH RIGHT NOS. 57-04005, 57-07003, 57-07082  
AND 57-10893 IS LIMITED TO A TOTAL COMBINED ANNUAL CONSUMPTIVE  
USE VOLUME OF 753.8 AF.

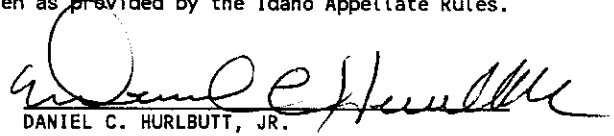
DATED: APR 29 1997

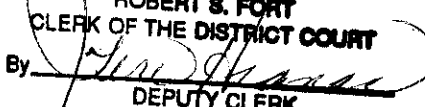
  
DANIEL C. HURLBUTT, JR.  
PRESIDING JUDGE  
Snake River Basin Adjudication

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: APR 29 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,  
true and correct copy of the original on  
file in the above entitled action.  
ROBERT S. FORT  
CLERK OF THE DISTRICT COURT  
By   
DEPUTY CLERK