

2002 MAR -6 PM 2:42

DIST. COURT-SRBA
TWIN FALLS, 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

Case No. 39576

)
) **ORDER OF PARTIAL DECREE**

)
) **For Water Right 41-00001D**

On January 29, 2002, 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 13f, 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 41-00001D is hereby **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED 3-6-02



ROGER S. BURDICK

Presiding Judge

Snake River Basin Adjudication

202 MAR -6 PM 2:42
DISTRICT COURT-SABA
TWIN FALLS CO., IDAHO
FILED

PAGE 1
Jan-29-2002

2002 MAR 06 PM 02:00
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)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 41-00001D

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 41-00001D was mailed
on March 06, 2002, with sufficient first-class postage prepaid
to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

IVAN & VIVIAN CHARLES
IVAN CHARLES
VIVIAN CHARLES
PO BOX 234
ROCKLAND, ID 83271
Phone: 208-548-2660


ROBBIN GLATZ
Chief Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
03/06/02

RECEIVED

AUG 04 2000

Department of Water Resources
2000 AUG -3 PM 3:34

SRBA
TWIN FALLS CO., IDAHO

**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

) Subcase No. 41-00001D
)

Case No. 39576

) **ORDER RESCINDING PARTIAL**
) **DECREE, I.R.C.P. 60(a).**
)
_____)

I. PROCEDURAL HISTORY

1. On July 28, 1999, a *Partial Decree* was entered in the above captioned water right. The SRBA records indicated that the water right was uncontested. A copy of said Partial Decree is attached hereto as Exhibit A.
2. On or about August 2, 2000, it was discovered by the clerk of the SRBA Court that an objection to the water right claim had been timely filed on December 27, 1999.
3. As a result of a clerical error, through no fault of the objector, the objection was not brought to the Court's attention until discovered by the clerk. A copy of said objection is attached hereto as Exhibit B. The objection also suggests a consolidation with all the 41-00001 split rights.

II. ORDER

For the reasons set forth above, IT IS HEREBY ORDERED that the partial decree entered for the above entitled water right claim is hereby rescinded. The matter is hereby referred to Special Master Dolan for further proceedings consistent with the order. Order of Reference dated February 2, 2000.

IT IS SO ORDERED.

DATED August 3, 2000.

A handwritten signature in black ink, appearing to read "Barry Wood", written over a horizontal line.

BARRY WOOD
Administrative District Judge
Presiding Judge of the
Snake River Basin Adjudication

CERTIFICATE OF MAILING

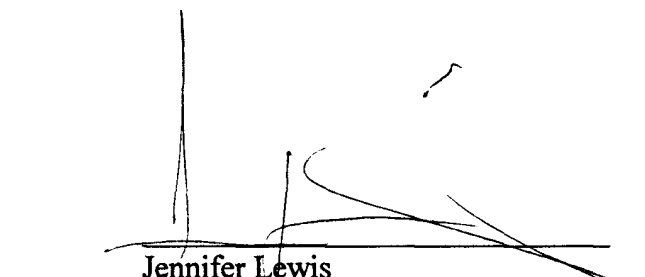
I certify that true and correct copies of the **ORDER RESCINDING PARTIAL DECREE, I.R.C.P. 60(a)**, were mailed on August 3, 2000, with sufficient first-class postage, to the following:

Chief of Nat'l Resources
State of Idaho
PO Box 44449
Boise, ID 83711-4449

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

U.S. Department of Justice
Environmental & Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

Ivan & Vivian Charles
PO Box 234
Rockland, ID 83271



Jennifer Lewis
Deputy Clerk of the Court
Snake River Basin Adjudication

EXHIBIT A

2000 JUL 28 PM 02:00
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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 41-00001D

NAME AND ADDRESS: IVAN CHARLES
VIVIAN CHARLES
PO BOX 234
ROCKLAND, ID 83271

SOURCE: ROCK CREEK, SOUTH FORK TRIBUTARY: ROCK CREEK

QUANTITY: 1.22 CFS

PRIORITY DATE: 04/01/1880

POINT OF DIVERSION: T10S R30E S01 SESESE Within Power County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Irrigation 04-01 TO 10-31 1.22 CFS

PLACE OF USE: Irrigation Within Power County
T10S R30E S01 SESE 18.0
S12 NENE 1.0
R31E S06 LOT 07 (SWSW)11.0
S07 NENW 19.0 LOT 01 (NWNW)11.0
SENE 21.0
81.0 Acres Total

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 61.0 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
USE OF THIS RIGHT WITH RIGHT NO. 41-00001E IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 81.0 ACRES 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.

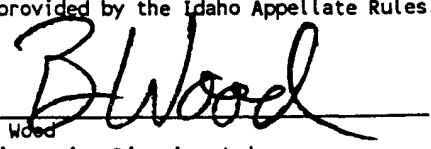

Barry Wood
Administrative District Judge
Presiding Judge of the
Snake River Basin Adjudication

EXHIBIT B

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

DEC 27 1999

By _____

Clerk

Deputy Clerk

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

A. Subcase

41-00001D

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: IVAN E VIVIAN CHARLES

Address: P.O. Box 234

Rockland, IDAHO 83271

Daytime Phone: (208) 548-2660

Name & Address of Attorney, if any:

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: _____

Address: _____

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ Name and Address
Should be: _____
2. ☐ Source
Should be: _____
3. ☒ Quantity
Should be: 1.4 CFS OR 70"
4. ☐ Priority Date
Should be: _____
5. ☒ Point(s) of Diversion
Should be: _____
6. ☐ Instream Flow Description
Should be: _____
7. ☒ Purpose(s) of Use
Should be: _____
8. ☐ Period of Year
Should be: _____
9. ☒ Place of Use
Should be: _____

11. I object because:

- ☐ This water right should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S):

Our Amount of water is 2.3 cfs or 115" - 70" full time water 1.4 cfs ; 45" meadow right - 0.9 cfs. Our full time water was cut 9" - from 70" 1.4 cfs. to 61" 1.2 cfs. We have been irrigating with this amount since 1968, all records that we have shows that we should receive this amount, the records date back to 1900.

We suggest a consolidation with all of the 41-0000 splits.

F.

VERIFICATION (Must be Completed)

State of IDAHO)
County of TOWER)ss.

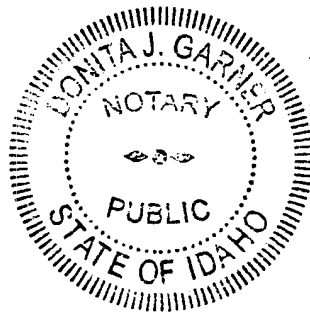
VIVIAN CHARLES, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

[Signature]
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: 12-23-99



Donita J. Garner
Notary Public for _____
Residing at: American Falls, ID
My Commission Expires: 9-14-2007

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G.

CERTIFICATE OF MAILING

I certify that on December 23, 1999, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: _____

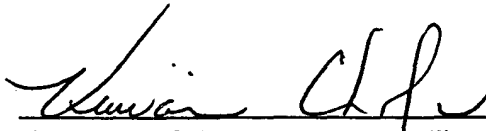
Address: _____

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724



Signature of Objector or attorney mailing on Objector's behalf

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 41-00001D

NAME AND ADDRESS: IVAN CHARLES
VIVIAN CHARLES
PO BOX 234
ROCKLAND, ID 83271

SOURCE: ROCK CREEK, SOUTH FORK TRIBUTARY: ROCK CREEK

QUANTITY: 1.22 CFS

PRIORITY DATE: 04/01/1880

POINT OF DIVERSION: T10S R30E S01 SESESE Within Power County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	1.22 CFS

PLACE OF USE:	Irrigation	Within Power County
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	SENEW 21.0	
	81.0 Acres Total	

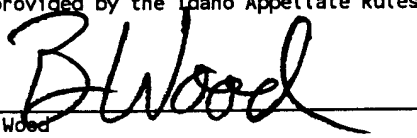
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Barry Wood
Administrative District Judge
Presiding Judge of the
Snake River Basin Adjudication