

2001 DEC 19 PM 3:14

DIST. COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
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	)	For Decreed Water Right 36-00089A
	)	(Split administratively into water rights 36-00089F &
	)	36-00089G)
Case No. 39576	)	
	)	ORDER AMENDING IRRIGATION PERIOD OF USE
	)	ELEMENT IN PARTIAL DECREE and
	)	INCORPORATING INTO PARTIAL DECREE AN
	)	EXPRESS STATEMENT REGARDING GENERAL
	)	PROVISIONS, <i>NUNC PRO TUNC</i>

A *Partial Decree* was entered for water right 36-00089A ("decreed water right") on November 25, 1997. The period of use element therein 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, the Idaho Department of Water Resources (IDWR) filed a *Supplemental Director's Report, Reporting Area 3, IDWR Basin 36, Regarding Revision of Period of Use (For Irrigation Water Uses) and Conjunctive Management General Provisions*, which included an irrigation period of use recommendations for water right 36-00089A. On June 23, 2000, IDWR a *Notice of Completed Administrative Proceeding* notifying this Court that pursuant to administrative proceedings conducted before IDWR, the decreed water right was split into multiple water rights designated as 36-00089F and 36-00089G ("split water rights").¹ There are no outstanding objections to IDWR's recommendation.

¹ Some or all of these split water rights may have again been split or affected by administrative proceedings following the issuance of the *Supplemental Director's Report*. However, this *Order* only amends the *Partial Decree* that was issued for the decreed water right and addresses only those split rights of which the Court received notice. Administrative changes to the split rights, if any, that occurred following the filing of the *Notice of Completed Administrative Proceeding* are not affected by this *Order* and are therefore not referenced.

THEREFORE, IT IS ORDERED that period of use element for the irrigation portion of the above-captioned decreed water right is hereby amended and decreed as:

PERIOD OF USE: 03-15 to 11-15

The use of water for irrigation under this right may begin as early as February 15 and may continue to as late as November 30, provided other elements of the right are not exceeded. The use of water before March 15 and after November 15 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 decreed water right is hereby amended and decreed to contain the following:

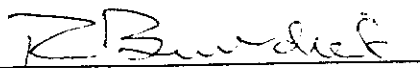
This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the court a point in time no later than the entry of a final unified decree. I.C. section 42-1412(6).

IT IS FURTHER ORDERED that this order is being entered *nunc pro tunc* effective as of the date the *Partial Decree* was issued and shall not supercede any subsequent administrative changes to the water right that may have 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: December 19, 2001.



ROGER BURDICK
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER AMENDING IRRIGATION PERIOD OF USE ELEMENT IN PARTIAL DECREE was mailed on December 19, 2001, with sufficient first-class postage to the following:

STATE OF IDAHO

Represented by:
CLIVE STRONG
NATURAL RESOURCES
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720-0010
Phone: 208-334-2400

JOHN F. CLOUSER

Represented by:
PATRICK D. BROWN
109 S ADAMS ST
JEROME, ID 83338
Phone: 208-644-1967

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

FRANKIE A ALVAREZ
148 3RD STREET
IDAHO FALLS, ID 83401

BOB R HUNT
JANA C HUNT
947 JUSTICE GRADE
HAGERMAN, ID 83332

District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls, ID 83303-2707

Important Information About Your Water Right

December 21, 2001

2001 DEC 19 PM 3:14
DISTRICT COURT - SRBA
TWIN FALLS, IDAHO
FILED

Frankie A Alvarez
148 - 3rd Street
Idaho Falls, ID 83401

Dear Water Right Claimant(s):

This letter accompanies a copy of an ***Order Amending Irrigation Period of Use Element in Partial Decree, and Incorporating into Partial Decree Express Statement Regarding General Provisions, Nunc Pro Tunc*** (hereinafter "***Order***") issued for water right number 36-00089A. Following the issuance of the ***Partial Decree*** for water right 36-00089A, the water right was split into multiple water rights pursuant to administrative proceedings conducted before the Idaho Department of Water Resources (IDWR). According to the records of IDWR, you are the current owner of water right 36-00089F which represents a water right resulting from the split of water right 36-00089A. If you are not the current owner, please contact IDWR immediately at:

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 water right 36-00089A. As stated in the face of the ***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 Decree*** an express statement that the ***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). This ***Order***, in combination with the ***Partial Decree*** that was issued for water right 36-00089A, sets forth all of the elements from which your water right is derived. (Again, your water right was split from water right 36-00089A.) The Snake River Basin Adjudication (SRBA) Court suggests that you keep this document in a safe location together with a copy of the ***Partial Decree*** to show evidence of this water right. The original of the ***Order*** and the original of the ***Partial Decree*** for this water right 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 ***Order*** is entered ***Nunc Pro Tunc***, meaning that the ***Order*** will be treated as if it were issued on the same date that the ***Partial Decree*** was originally issued and therefore does not supercede any administrative changes occurring after that date.

Sincerely,

Diana Delaney
Case Administrator

District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls, ID 83303-2707

2001 DEC 19 PM 3:14

Important Information About Your Water Right

December 21, 2001

SRBA
TWIN FALLS, IDAHO
FILES

Jana C Hunt
Bob R Hunt
947 Justice Grade
Hagerman, ID 83332

Dear Water Right Claimant(s):

This letter accompanies a copy of an *Order Amending Irrigation Period of Use Element in Partial Decree, and Incorporating into Partial Decree Express Statement Regarding General Provisions, Nunc Pro Tunc* (hereinafter "*Order*") issued for water right number 36-00089A. Following the issuance of the *Partial Decree* for water right 36-00089A, the water right was split into multiple water rights pursuant to administrative proceedings conducted before the Idaho Department of Water Resources (IDWR). According to the records of IDWR, you are the current owner of water right 36-00089G which represents a water right resulting from the split of water right 36-00089A. If you are not the current owner, please contact IDWR immediately at:

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 water right 36-00089A. As stated in the face of the *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 Decree* an express statement that the *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). This *Order*, in combination with the *Partial Decree* that was issued for water right 36-00089A, sets forth all of the elements from which your water right is derived. (Again, your water right was split from water right 36-00089A.) The Snake River Basin Adjudication (SRBA) Court suggests that you keep this document in a safe location together with a copy of the *Partial Decree* to show evidence of this water right. The original of the *Order* and the original of the *Partial Decree* for this water right 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 *Order* is entered *Nunc Pro Tunc*, meaning that the *Order* will be treated as if it were issued on the same date that the *Partial Decree* was originally issued and therefore does not supercede any administrative changes occurring after that date.

Sincerely,

Diana Delaney
Case Administrator

COPY

2000 JUN 23 PM 1:56

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	)	SUBCASE NO. 36-00089A,
	)	36-00089F, 36-00089G
Case No. 39576	)	
	)	NOTICE OF COMPLETED
_____	)	ADMINISTRATIVE PROCEEDING

IDWR has completed the following Administrative proceeding: **SUBSTITUTION OF PARTY**

Does the change in "ownership" result in a splitting of the water right claimed? ☒ Yes ☐ No

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Reports* for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: 6/22/00


Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on 6/23, 2000, I mailed the original and copies of this form to the following persons, postage prepaid and addressed as follows:

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:
Claimant/Seller for Substitution of Party or attorney of record:
Patrick D Brown
109 S Adams St
Jerome ID 83338
3. One Copy to:
Claimant/Purchaser for Substitution of Party or attorney of record:
Bob R Hunt
Jana C Hunt
947 Justice Grade
Hagerman ID 83332
Frankie A Alvarez
148 3rd St
Idaho Falls ID 83401
4. One Copy to:
Each party in the subcase or attorney of record:
5. One Copy to:
Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise ID 83711-4449
6. One Copy to:
United States Dept Of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724



Signature of person or attorney mailing the form

AJ5859NP

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

DATE: JUN-21-2000
PAGE: A-1

RIGHT NUMBER: 36-00089A

SPLIT RIGHT: SEE RIGHT NOS. 36-00089F AND 36-00089G.

AJ5856NP

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

DATE: JUN-21-2000
PAGE: A-9

RIGHT NUMBER: 36-00089F

NAME & ADDRESS: FRANKIE A ALVAREZ
148 3RD STREET
IDAHO FALLS ID 83401

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 0.02 CFS

PRIORITY DATE: 06/26/1881

POINT OF DIVERSION: T07S R13E S11 NESENE Within GOODING County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	03-15 11-15	0.02 CFS

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS FEBRUARY 15 AND MAY CONTINUE TO AS LATE AS NOVEMBER 30, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE MARCH 15 AND AFTER NOVEMBER 15 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.

PLACE OF USE: IRRIGATION Within GOODING County
 T07S R13E S11 SENE 1
 1 ACRES TOTAL

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. SECTION 42-1412(6), IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE
 WATER IS DELIVERED THROUGH THE JOHN BELL DITCH.

AJ5856NP

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

DATE: JUN-21-2000
PAGE: A-10

RIGHT NUMBER: 36-00089G

NAME & ADDRESS: JANA C HUNT
BOB R HUNT
947 JUSTICE GRADE
HAGERMAN ID 83332

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 0.02 CFS

PRIORITY DATE: 06/26/1881

POINT OF DIVERSION: T07S R13E S11 NESENE Within GOODING County

TWO POINTS OF DIVERSION LOCATED IN T07S, R13E, S11, NESENE.

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	03-15 11-15	0.02 CFS

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS FEBRUARY 15 AND MAY CONTINUE TO AS LATE AS NOVEMBER 30, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE MARCH 15 AND AFTER NOVEMBER 15 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.

PLACE OF USE: IRRIGATION Within GOODING County
T07S R13E S11 SENE 1
1 ACRES TOTAL

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. SECTION 42-1412(6), IDAHO CODE.

THE RIGHT HOLDER SHALL ACCOMPLISH THE CHANGE AUTHORIZED BY TRANSFER NO. 2333 BY MAY 10, 2000.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

WATER IS DELIVERED THROUGH THE JOHN BELL DITCH AND A PUMP IN BILLINGSLEY CREEK.