

1574

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 36-07760

1997 FEB -4 AM 10:27  
DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

NAME & ADDRESS: RICHARD B VAN DYK  
TAMMY D VAN DYK  
216A N 500 W  
JEROME ID 83338

SOURCE: GROUNDWATER

QUANTITY: 2.3 CFS

USE OF THIS RIGHT WITH RIGHT NO. 36-02457 IS LIMITED TO A  
TOTAL COMBINED DIVERSION RATE OF 3.30 CFS, A TOTAL COMBINED  
ANNUAL DIVERSION VOLUME OF 888 AF.

PRIORITY DATE: 11/07/1977

POINT OF DIVERSION: T07S R16E S21 NENESE Within JEROME County

| PURPOSE AND PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE     | QUANTITY |
|----------------------------|----------------|-------------------|----------|
|                            | IRRIGATION     | Irrigation Season | 2.3 CFS  |

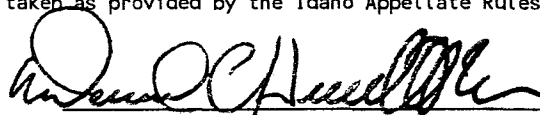
| PLACE OF USE: | IRRIGATION      | Within JEROME County |         |         |         |
|---------------|-----------------|----------------------|---------|---------|---------|
|               | T07S R16E S21   | SWNE 33              | SENE 40 | NESE 40 | NWSE 34 |
|               | S22             | NESW 29              | NWSW 36 | NWSE 10 |         |
|               | 222 ACRES TOTAL |                      |         |         |         |

USE OF THIS RIGHT WITH RIGHT NO. 36-02457 IS LIMITED TO A  
COMBINED TOTAL OF 222 ACRES IN A SINGLE IRRIGATION SEASON.  
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 221 ACRES WITHIN  
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

  
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.

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

PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)  
Water Right 36-07760

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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

|                |   |                                                       |
|----------------|---|-------------------------------------------------------|
| In Re SRBA     | ) | For Decreed Water Right 36-07760                      |
|                | ) | (Split administratively into water rights 36-07760A & |
|                | ) | 36-07760B)                                            |
| 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 36-07760 ("decreed water right") on December 4, 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 irrigation period of use recommendations for water right 36-07760. On November 17, 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 36-07760A and 36-07760B ("split water rights").<sup>1</sup> There are no outstanding objections to IDWR's recommendations. The Court finds that IDWR's recommendations for irrigation period of use for the split water rights are based on the irrigation period of use for the decreed water right.

<sup>1</sup> 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

IT IS FURTHER ORDERED that the *Partial Decree* for the above-captioned decreed water right is hereby amended and decreed to contain the following:

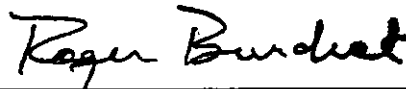
This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the court at a point in time no later than the entry of a final unified decree. I.C. section 42-1412(6);

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: January 14, 2002.



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 ELEMEN IN PARTIAL DECREE..., NUNC PRO TUNC was mailed on January 14, 2002, with sufficient first-class postage to the following:

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

RICHARD VANDYK  
TAMMY D VANDYK  
216A N 500 WEST  
JEROME, ID 83338  
Phone: 208-324-8958

## Important Information About Your Water Right

January 13, 2002

F Gunning  
PO Box 821  
Wendell, ID 83355

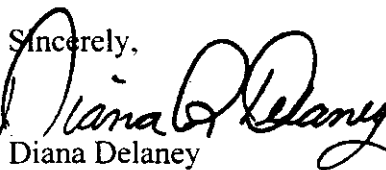
13010002

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 36-07760. Following the issuance of the **Partial Decree** for water right 36-07760, 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 36-07760B,<sup>1</sup> which represents a water right resulting from the split of water right 00-07760. 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 36-07760. 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 36-07760, sets forth all of the elements from which your water right is derived. (Again, your water right was split from water right 36-07760.) 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

<sup>1</sup> If water right 36-07760 is not listed as one of the split rights in the caption of the accompanying **Order**, it is because one of the captioned split rights was again split. This resulted in more split water rights including your water right. However, for purposes of the **Order**, these subsequently split rights need not be addressed, as they are not affected by the **Order**. If you have questions regarding your water right please contact IDWR.

## Important Information About Your Water Right

January 13, 2002

Richard B. Van Dyk  
2343 E 3100 S  
Jerome, ID 83338

1/13/02

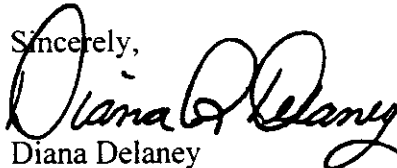
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**1301 North Orchard, Boise, ID 83706, 800-451-4129.**

The purpose of the **Order** is to set forth beginning and ending dates for the irrigation period of use for water right 36-07760. 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 36-07760, sets forth all of the elements from which your water right is derived. (Again, your water right was split from water right 36-07760.) 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.

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