

RECEIVED
NOV 28 2000
Department of Water Resources

200 NOV 27 PM 3:02

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

Case No. 39576

ORDER OF PARTIAL DECREE

For Water Right 36-00021B

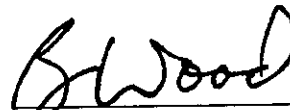
On November 1, 2000, a *Special Master's Report and Recommendation* was filed for the above water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

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.

On August 2, 1999, in response to the Idaho Supreme Court decision in *A&B Irrigation District v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998), 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 a recommendation for the irrigation season of use for this water right. No objections to this Supplemental Report were filed and the time period for filing objections has now expired.

Therefore, IT IS ORDERED that water right 36-00021B is hereby **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED Nov 27, 2000.



BARRY WOOD

Administrative District Judge and
Presiding Judge of the
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 36-00021B

200 NOV 27 PM 3:02

FILED
TWIN FALLS CO., IDAHO

NAME AND ADDRESS: HARRY R GISLER
755 EAST 2800 SOUTH
HAGERMAN, ID 83332

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 7.32 CFS

THE PORTION OF THIS RIGHT IN EXCESS OF 4.58 CFS IS
SUBORDINATED TO ALL GROUND WATER AND SURFACE WATER RIGHTS WITH
PRIORITY DATES OF DECEMBER 31, 1999 OR EARLIER.
THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE
SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 03/30/1884

POINT OF DIVERSION: T07S R13E S11 NWNENE Within Gooding County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	02-15 TO 11-30	7.32 CFS
	Stockwater	02-15 TO 11-30	0.09 CFS
	Stockwater	12-01 TO 02-14	1.93 CFS

THE IRRIGATION USE UNDER THIS RIGHT IN EXCESS OF 4.58 CFS IS
SUBORDINATED TO ALL WATER RIGHTS WITH PRIORITY DATES OF
DECEMBER 31, 1999 OR EARLIER.

PLACE OF USE:	Irrigation	Within Gooding County
	T07S R13E S21 LOT 06 (NESE)10.0	LOT 09 (SESE)28.0
	S22 NESW 9.0	NWSW 13.0
	S27 SWSW 37.0	
	S27 NWNW 32.0	
	S28 NENE 8.0	
	137.0 Acres Total	
	Stockwater	Within Gooding County
	T07S R13E S21 LOT 06 (NESE)	LOT 09 (SESE)
	S22 NESW	NWSW
	S27 SWSW	
	S27 NWNW	
	S28 NENE	LOT 01 (NWE)

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

1.84 CFS OF THE UNSUBORDINATED PORTION OF THIS RIGHT IS
LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THIS RIGHT.

THE SUBORDINATED PORTION OF THIS WATER RIGHT SHALL NOT BE
ASSERTED, DELIVERED, HONORED, USED, ENFORCED, EFFECTIVE OR
OTHERWISE RECOGNIZED AS VALID IF IT WOULD CAUSE OR REQUIRE
EITHER DIRECTLY OR INDIRECTLY, CURTAILMENT OF, INJURY TO, OR
MITIGATION FROM ANY WATER RIGHTS WITH PRIORITY DATES EARLIER
THAN DECEMBER 31, 1999. THE SUBORDINATION SHALL RUN WITH AND BE
A PERPETUAL SERVITUDE UPON THIS WATER RIGHT AND THE ASSOCIATED
LANDS, INCLUDING ANY NEW LANDS TO WHICH ALL OR ANY PORTIONS OF
THIS WATER RIGHT IS TRANSFERRED.

THE QUANTITY OF WATER DECREED UNDER THIS RIGHT FOR STOCKWATER
USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

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

2000 NOV 27 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): 36-00021B

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 36-00021B was mailed
on November 27, 2000, with sufficient first-class postage prepaid
to the following:

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

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

MAY FARMS LTD
Represented by:
JOSEPHINE P. BEEMAN
PO BOX 1427
BOISE, ID 83701-1427
Phone: 208-388-8900

HARRY R GISLER
HARRY R. GISLER

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

STATE OF IDAHO

Represented by:
PETER J. AMPE
PO BOX 83720
BOISE, ID 83720-0010
Phone: 208-334-2400

DIANA DELANEY
Chief Deputy Clerk