

RECEIVED

AUG 22 1997

Department of Water Resources

1997 AUG 20 PM 4:57  
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 MODIFYING SPECIAL     |
|                | ) | MASTER'S REPORT AND ISSUING |
| Case No. 39576 | ) | PARTIAL DECREE              |
| _____          | ) | For Water Right 36-02126    |

On May 15, 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.

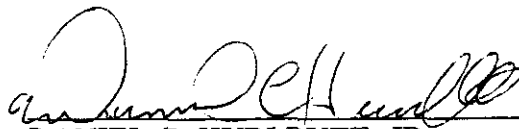
Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 14a, this court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and **modifies** them as follows.

The name and address of the owner is changed to Lyle Fassett and Evelyn Fassett, 1122 N 400 E, Rupert, Idaho 83350. This change is made in accord with the *Notice of Completed Administrative Proceedings* filed June 26, 1996.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 14a, the court wholly **adopts** the remaining Findings of Fact and Conclusions of Law contained in the *Special Master's Report*.

Therefore, IT IS ORDERED that water right 36-02126 be decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED August 20, 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 36-02126

1997 AUG 20 PM 4:57

NAME & ADDRESS: LYLE FASSETT  
EVELYN FASSETT  
1122 N 400 E  
RUPERT ID 83350

SOURCE: GROUNDWATER

QUANTITY: 2.36 CFS  
640.0 AFY

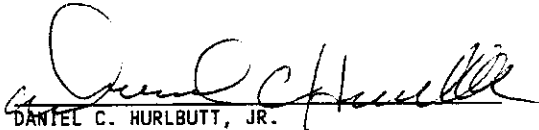
PRIORITY DATE: 06/07/1951

POINT OF DIVERSION: T07S R24E S01 SWNESE Within MINIDOKA County

| PURPOSE AND PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE     | QUANTITY              |
|----------------------------|----------------|-------------------|-----------------------|
| IRRIGATION                 |                | Irrigation Season | 2.36 CFS<br>640.0 AFY |

| PLACE OF USE: | IRRIGATION                       | Within MINIDOKA County | NESE 40 | NWSE 40 | SWSE 40 | SESE 40 |
|---------------|----------------------------------|------------------------|---------|---------|---------|---------|
|               | T07S R24E S01<br>160 ACRES TOTAL |                        |         |         |         |         |

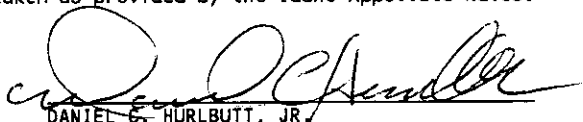
DATED: August 20, 1997

  
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.

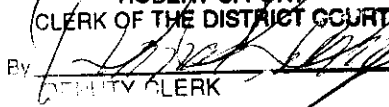
DATED: August 20, 1997

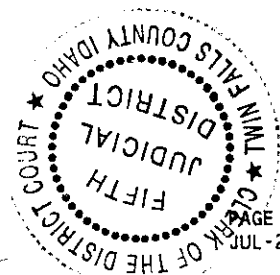
  
DANIEL C. HURLBUTT, JR.  
PRESIDING JUDGE  
Snake River Basin Adjudication

PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)  
Water Right 36-02126

State of Idaho ss.  
County of Twin Falls  
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   
CLERK



PAGE 1  
JUL-21-1997

2001 DEC -3 PM 4:30

FILED  
TWIN FALLS CO., IDAHO  
12-3-01

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

|                       |   |                                                |
|-----------------------|---|------------------------------------------------|
|                       | ) | <b>Water Right 36-02126</b>                    |
| <b>In Re SRBA</b>     | ) |                                                |
|                       | ) |                                                |
|                       | ) | <b>ORDER AMENDING IRRIGATION PERIOD OF USE</b> |
|                       | ) | <b>ELEMENT IN PARTIAL DECREE and</b>           |
| <b>Case No. 39576</b> | ) | <b>INCORPORATING INTO PARTIAL DECREES AN</b>   |
|                       | ) | <b>EXPRESS STATEMENT REGARDING GENERAL</b>     |
|                       | ) | <b>PROVISIONS, <i>NUNC PRO TUNC</i></b>        |

A ***Partial Decree*** was entered for the above-captioned irrigation water right on August 20, 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 June 24, 1999, 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 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:                      03-15 to 11-15

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 December 3, 2001.



ROGER BURDICK  
Presiding Judge  
Snake River Basin Adjudication