

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 36-02089

1997 DEC -4 AM 10:34

DISTRICT COURT  
TWIN FALLS, IDAHO

NAME & ADDRESS: RICHARD F POTEET  
SHERMA F POTEET  
788 EAST 800 NORTH  
RUPERT ID 83350

SOURCE: GROUNDWATER

QUANTITY: 4.84 CFS  
1700.0 AFY

PRIORITY DATE: 03/28/1950

POINT OF DIVERSION: T08S R26E S16 SWNESW Within BLAINE County

|                               |                              |                                    |                                    |
|-------------------------------|------------------------------|------------------------------------|------------------------------------|
| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE<br>IRRIGATION | PERIOD OF USE<br>Irrigation Season | QUANTITY<br>4.84 CFS<br>1700.0 AFY |
|-------------------------------|------------------------------|------------------------------------|------------------------------------|

|                  |                 |                      |         |         |         |
|------------------|-----------------|----------------------|---------|---------|---------|
| PLACE OF USE:    | IRRIGATION      | Within BLAINE County |         |         |         |
|                  | T08S R26E S16   | SWNE 25              | SENE 25 | NENW 32 | NWNW 40 |
|                  |                 | SWNW 40              | SENW 40 | NESW 40 | NWSW 40 |
|                  |                 | SWSW 5               | SESW 4  | NESE 37 | NWSE 37 |
|                  |                 | SWSE 25              | SESE 35 |         |         |
|                  | 425 ACRES TOTAL |                      |         |         |         |
| CONSUMPTIVE USE: | 1275.0 AFY      |                      |         |         |         |

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

2001 DEC -3 PM 4: 23  
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     | ) | Water Right 36-02089                    |
|                | ) |                                         |
|                | ) | ORDER AMENDING IRRIGATION PERIOD OF USE |
|                | ) | ELEMENT IN PARTIAL DECREE and           |
| Case No. 39576 | ) | INCORPORATING INTO PARTIAL DECREES AN   |
|                | ) | EXPRESS STATEMENT REGARDING GENERAL     |
|                | ) | PROVISIONS, <i>NUNC PRO TUNC</i>        |

A *Partial Decree* was entered for the above-captioned irrigation water right on December 4, 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.

A handwritten signature in black ink, reading "Roger Burdick", is written over a horizontal line.

ROGER BURDICK  
Presiding Judge  
Snake River Basin Adjudication