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DEC 20 2001

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 36-15494

2001 DEC 19 PM 4:16
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: BEATRICE BOLDT MERZ
VERNON MERZ
364 W 500 S
HEYBURN, ID 83336

SOURCE: GROUND WATER

QUANTITY: 0.04 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED
13,000 GALLONS PER DAY.

PRIORITY DATE: 05/01/1980

POINT OF DIVERSION: T10S R23E S14 SESESW Within Minidoka County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic	01-01 TO 12-31	0.04 CFS

PLACE OF USE: Domestic Within Minidoka County
T10S R23E S14 SESW

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

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

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.

Roger Burdick

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

2001 MAR -8 PM 4: 05
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 36-15494 and 36-15495
	)	
Case No. 39576	)	ORDER SETTING ASIDE PARTIAL
	)	DECREES, I.R.C.P. 60(a)

On April 2, 1996, claimants Vernon and Beatrice Merz filed *Standard Forms 4, Motion to File Late Notice of Claim*. Following hearing on the matter, this Court entered an **Order Granting Motions to File Late Notice of Claim** and the claims were forwarded to the Idaho Department of Water Resources for investigation and director's recommendations.

In late 1997, IDWR submitted to the court proposed partial decrees for uncontested water rights in Basin 36 which IDWR considered ready to be decreed by the Court. IDWR's submission included water rights 36-15494 and 36-15495, and on December 4, 1997, this court entered **Partial Decrees** for these water rights. These **Partial Decrees** were entered in error. Under I.R.C.P. §§ 42-1409-1412, the court shall enter a decree only after IDWR has reported its recommendation for that claim in a Director's Report on file with the court and parties to the SRBA have been given an opportunity to file objections to that recommendation. The Director's recommendations for water right claims 36-15494 and 36-15495 were not filed with this Court until March 5, 2001, when IDWR filed their *Director's Report for Late Claims, Domestic and Stockwater and Irrigation and Other Water uses, Reporting Areas 1, 2, 3, 4, 5, 6, 8 & 16, IDWR Basins 32, 34, 35, 36, 37, 51, 57, 61, 71 & 72*.

Therefore, IT IS ORDERED, that the **Partial Decrees** entered for water rights 36-15494 and 36-15495 are set aside.

IT IS SO ORDERED.
DATED: March 8, 2001.



ROGER S. BURDICK
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

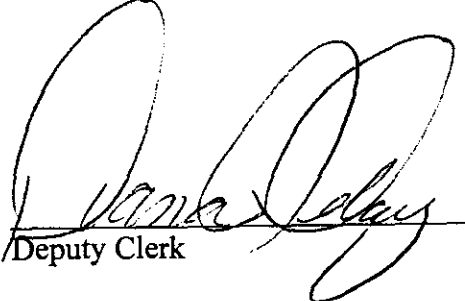
I certify that a true and correct copy of the **ORDER SETTING ASIDE PARTIAL DECREE, I.R.C.P. 60(a)** was mailed on March 8, 2001, with sufficient first-class postage to the following:

Beatrice Boldt Merz
Vernon Merz
364 W 500 S
Heyburn, ID 83336

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of Attorney General
PO Box 44449
Boise, ID 83711-4449



Deputy Clerk

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 7-000-4 10/10/95
I.R.C.P. 54(b) FOR
Water Right 36-15494

DISTRICT COURT
TWIN FALLS, IDAHO
FILED

NAME & ADDRESS: BEATRICE BOLDT MERZ
VERNON MERZ
364 W 500 S
HEYBURN ID 83336

SOURCE: GROUNDWATER

QUANTITY: 0.04 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL
NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 05/01/1980

POINT OF DIVERSION: T10S R23E S14 SESESW Within MINIDOKA County

PURPOSE AND			
PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	DOMESTIC 1 DUPLEX	01-01 12-31	0.04 CFS

PLACE OF USE: DOMESTIC Within MINIDOKA County
T10S R23E S14 SESW

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

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



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