

|                                                                                         |              |
|-----------------------------------------------------------------------------------------|--------------|
| DISTRICT COURT-SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |              |
| JAN 31 2002                                                                             |              |
| By _____                                                                                | Clerk        |
| _____                                                                                   | Deputy Clerk |

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

|                       |   |                                 |
|-----------------------|---|---------------------------------|
| <b>In Re SRBA</b>     | ) |                                 |
|                       | ) | <b>ORDER OF PARTIAL DECREE</b>  |
| <b>Case No. 39576</b> | ) |                                 |
| _____                 | ) | <b>For Water Right 35-02738</b> |

On November 7, 2001, 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.

Therefore, IT IS ORDERED that water right 35-02738 is hereby **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED January 31, 2002.

  
 \_\_\_\_\_  
 ROGER S. BURDICK  
 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 35-02738

DISTRICT COURT-SRBA  
Fifth Judicial District  
County of Twin Falls - State of Idaho

JAN 31 2002

By

Clerk

Deputy Clerk

NAME AND ADDRESS: BEHREND FARMS INC  
2807 W 1900 S  
ABERDEEN, ID 83210

SOURCE: GROUNDWATER

QUANTITY: 4.125 CFS

USE OF THIS RIGHT WITH RIGHT NO. 35-07516 IS LIMITED TO A  
TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 1232 AF.

PRIORITY DATE: 05/07/1964

POINT OF DIVERSION: T06S R30E S09 NENSW Within Bingham County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY  |
|-------------------------------|----------------|----------------|-----------|
|                               | Irrigation     | 04-01 TO 10-31 | 4.125 CFS |

| PLACE OF USE: | Irrigation        | Within Bingham County |           |
|---------------|-------------------|-----------------------|-----------|
|               | T06S R30E S09     | NENW 40.0             | NWNW 39.0 |
|               |                   | SWNW 39.0             | SENW 40.0 |
|               |                   | NESW 40.0             | NWSW 39.0 |
|               |                   | SWSW 38.0             | SESW 33.0 |
|               | 308.0 Acres Total |                       |           |

USE OF THIS RIGHT WITH RIGHT NO. 35-07516 IS LIMITED TO THE  
IRRIGATION OF A COMBINED TOTAL OF 308 ACRES IN A SINGLE  
IRRIGATION SEASON.

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

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

2002 JAN 31 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): 35-02738 |

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 35-02738 was mailed  
on January 31, 2002, with sufficient first-class postage prepaid  
to the following:

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

BEHREND FARMS INC  
Represented by:  
JEFFREY C. FEREDAY  
PO BOX 2720  
BOISE, ID 83701-2720  
Phone: 208-388-1200

STATE OF IDAHO  
Represented by:  
NATURAL RESOURCES DIV CHIEF  
STATE OF IDAHO  
ATTORNEY GENERAL'S OFFICE  
PO BOX 44449  
BOISE, ID 83711-4449

DIANA DELANEY  
Chief Deputy Clerk