

District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls, ID 83303-2707

Important Information About Your Water Right

December 14, 2001

HERB WHITWORTH
STAR ROUTE
MACKAY, ID 83251

Dear Water Right Claimant(s):

The reverse side of this letter contains a copy of an **Order Amending Irrigation Period of Use Element in Partial Decree, Nunc Pro Tunc** (hereinafter "**Order**") for water right number 34-00766. According to Idaho Department of Water Resources (IDWR) records, you are the current owner of this water right. If you are not the current owner, please contact IDWR immediately at:

Idaho Department of Water Resources
1301 North Orchard
Boise, ID 83706
800-451-4129

The Purpose of the **Order** is to set forth beginning and ending dates for the irrigation period of use for this water right. As stated in the face of the **Order**, this action was necessary following the decision of the Idaho Supreme Court in *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998). This **Order** also incorporates into the **Partial Decree** an express statement that the **Partial Decree** is subject to such general provisions necessary for the definition or for the efficient administration of the water right. This express statement is necessary to comply with the requirements of Idaho Code section 42-1412(6). This **Order** in combination with the **Partial Decree** that was issued for this water right on February 24, 1998, sets forth all of the elements of your water right. The Snake River Basin Adjudication (SRBA) Court suggests that you keep this document in a safe location together with a copy of the **Partial Decree** to show evidence of the water right. The original of this **Order** and the original of the **Partial Decree** for this water right are on file with SRBA Court. If you do not have a copy of the original **Partial Decree**, one can be obtained by contacting the SRBA Court at (208) 736-3011. Please note that the **Order** is entered **Nunc Pro Tunc**, meaning that the **Order** will be treated as if it were issued the same date that the **Partial Decree** was originally issued.

Sincerely,



Diana Delaney
Case Administrator

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)

Water Right 34-00766

ORDER AMENDING IRRIGATION PERIOD OF USE ELEMENT
IN PARTIAL DECREE AND INCORPORATING INTO PARTIAL
DECREE AN EXPRESS STATEMENT REGARDING GENERAL
PROVISIONS, *NUNC PRO TUNC*

A *Partial Decree* was entered for the above-captioned irrigation water right on February 24, 1998. 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, IDWR filed a *Supplemental Director's Report, Reporting Area 1, IDWR Basin 34, 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 recommendation and the time period for filing objections has now expired.

THEREFORE, IT IS ORDERED that the period of use for the irrigation element of the above-captioned water right is hereby amended and decreed as:

PERIOD OF USE: 05-01 10-15

THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.

IT IS FURTHER ORDERED that the *Partial Decree* for the above-captioned water right is hereby amended and decreed to contain the following:

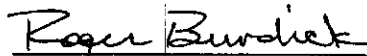
This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the court at a point in time no later than the entry of a final unified decree. I.C. section 42-1412(6).

This order is being entered *nunc pro tunc* as of the date the *Partial Decree* was issued and is not intended to modify any 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 14, 2001



ROGER BURDICK
Presiding Judge
Snake River Basin Adjudication

1998 FEB 24 AM 7:56
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	)	ORDER OF PARTIAL DECREE
	)	
Case No. 39576	)	For Water Right 34-00766
	)	

On October 6, 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 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 34-00766 is hereby decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED February 24, 1998.


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 34-00766

1998 FEB 24 AM 7:56

DISTRICT COURT - 5th JUDICIAL DISTRICT
TWIN FALLS CO., IDAHO

FILED _____

NAME & ADDRESS: HERB WHITWORTH
STAR ROUTE
MACKAY ID 83251

SOURCE: ELKHORN CREEK

TRIBUTARY: SINKS

QUANTITY: 7.16 CFS

THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER
DESCRIBED FOR STOCK WATER PURPOSES AT A POINT OF MEASUREMENT
WHERE THE DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED.

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

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 31.44 CFS.

COMBINED RIGHT NOS.: 34-00755, 34-00757, 34-00758, 34-00766,
34-10164, 34-10167, 34-00363, 34-00364, 34-00760, 34-00764,
34-10166, 34-10165

PRIORITY DATE: 05/01/1885

POINT OF DIVERSION: T09N R22E S26
S35

SESW
NWNW

Within CUSTER County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION
STOCKWATER
DOMESTIC 2 HOMES

PERIOD OF USE
Irrigation Season
01-01 12-31
01-01 12-31

QUANTITY
7.08 CFS
0.02 CFS
0.06 CFS

PLACE OF USE:

IRRIGATION

T08N R22E S02

Lot 4

Within CUSTER County

(NWNW)31

SWNW 40

NESW 20

NWSW 9

S03

Lot 1

(NENE)39

Lot 2

(NENW)24

(NWNE)40

SWNE 26

SENE 29

Lot 3

(NENW)24

SESW 30

SWSE 30

SESE 18

T09N R22E S34

354 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 786 ACRES IN A SINGLE
IRRIGATION SEASON.

COMBINED RIGHT NOS.: 34-00755, 34-00757, 34-00758, 34-00766,
34-10164, 34-10167, 34-00363, 34-00364, 34-00760, 34-00764,
34-10166, 34-10165

Place of use for STOCKWATER is same as IRRIGATION

DOMESTIC
T09N R22E S34

Within CUSTER County
SESE

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

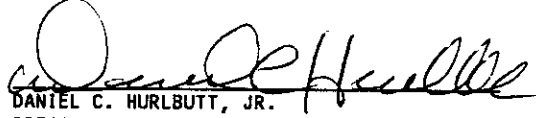
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
DOMESTIC USE AND STOCKWATER USE IS NOT A DETERMINATION OF
HISTORICAL BENEFICIAL USE.

PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 34-00766

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FEB-13-1998

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

1998 FEB 24 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): 34-00766

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 34-00766 was mailed
on February 24, 1998, 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
OFFICE OF ATTORNEY GENERAL
STATE OF IDAHO
PO BOX 44449
BOISE, ID 83711-4449
Phone: 208-334-2400

USDI BLM
Represented by:
U.S. DEPT. OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724
Phone: 208-387-0835

CERTIFICATE OF MAILING

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02/24/98

HERB WHITWORTH
STAR ROUTE
MACKAY, ID 83251

DIANA DELANEY
Chief Deputy Clerk