

2002 JUN 27 PM 2:07

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 34-7171
	)	
	)	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 30, 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 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 *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: 04-01 to 11-01

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 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 June 27, 2002.



ROGER BURDICK
Presiding Judge
Snake River Basin Adjudication

1997 DEC 29 PM 3: 22

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 34-07171
_____	)	

On November 28, 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 34-07171 is hereby **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED December 29, 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 34-07171

1997 DEC 29 PM 3: 22

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED _____

NAME & ADDRESS: WILLIAM A SEEFRIED
HOLLY C SEEFRIED
4399 HOUSTON RD
MACKAY ID 83251

SOURCE: GROUNDWATER

QUANTITY: 3.78 CFS
661.5 AFY

USE OF THIS RIGHT WITH RIGHT NOS. 34-00393 AND 34-00964 IS
LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 5.40 CFS.

PRIORITY DATE: 03/09/1977

POINT OF DIVERSION: T06N R24E S03 SENENE Within CUSTER County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	Irrigation Season	3.78 CFS 661.5 AFY

PLACE OF USE:	IRRIGATION	Within CUSTER County			
	T06N R24E S02	Lot 4 (NWNW) 1	SWNW 11		
	S03	Lot 1 (NENE) 1	SWNE 35	SENE 35	NESE 39
		NWSE 39	SWSE 14	SESE 14	
	189 ACRES TOTAL				

USE OF THIS RIGHT WITH RIGHT NOS. 34-00393 AND 34-00964 IS
LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 189 ACRES IN A
SINGLE IRRIGATION SEASON.

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

A MEASURING DEVICE OF A TYPE APPROVED BY IDWR SHALL BE
MAINTAINED AS A PART OF THE DIVERTING WORKS.

THE WELL AT THE POINT OF DIVERSION DESCRIBED ABOVE SHALL BE
CONSTRUCTED AND MAINTAINED SUCH THAT THE UNPERFORATED CASING AND
SEAL EXTENDS A MINIMUM OF 50 FEET BELOW LAND SURFACE OR TO THE
FIRST CONFINING LAYER, WHICHEVER IS ENCOUNTERED FIRST.

THE APPROPRIATOR IS REQUIRED TO CEASE DIVERSION FROM THIS WELL
AT ANY AND ALL TIMES THAT THE FLOW FROM KENT SPRING IS
DETERMINED BY THE WATERMASTER OF WATER DISTRICT NO. 34 TO BE LESS
THAN 1.80 CFS OR THE RATE OF FLOW DEMANDED UNDER RIGHT 34-00414,
WHICHEVER IS LESS, UNTIL SUCH TIME AS THE APPROPRIATOR HAS
SUBMITTED AND RECEIVED APPROVAL FROM THE DIRECTOR OF THE
DEPARTMENT FOR A PLAN TO MITIGATE THE EFFECT OF PUMPING OF THE
WELL ON RIGHT 34-00414. THE PLAN MAY INCLUDE A PROCEDURE FOR
DETERMINING THE "NATURAL DISCHARGE" OF KENT SPRINGS WHICH DOES
NOT NEED TO BE AUGMENTED OR ENLARGED BY THE APPROPRIATOR. THE
"NATURAL DISCHARGE" FROM THE SPRINGS IS INTENDED TO MEAN THE RATE
OF FLOW WHICH WOULD OCCUR WITHOUT THE EFFECT OF PUMPING THE
APPROPRIATOR'S WELL.

THE AMOUNT OF WATER FLOW FROM KENT SPRINGS AVAILABLE TO
PROVIDE WATER FOR RIGHT 34-00414 SHALL BE MEASURED NEAR THE
ROAD WHERE FLOW FROM THE SPRINGS CONCENTRATES INTO A SINGLE
CHANNEL AND PASSES UNDER THE ROAD. THIS LOCATION IS FURTHER
DESCRIBED AS BEING WITHIN THE NWNW, SECTION 2, T06N, R24E, BM.
USE OF WATER FROM APPROPRIATOR'S WELL IS UNDER THE CONTROL OF THE

PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 34-07171

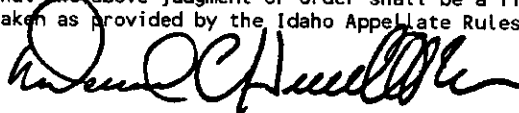
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NOV-28-1997

OTHER PROVISIONS: (CONT)

WATERMASTER OF WATER DISTRICT NO. 34, BIG LOST RIVER AND
TRIBUTARIES.

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

1997 DEC 30 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): 34-07171

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 34-07171 was mailed
on December 30, 1997, 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

KEVIN & JENNIFER SWIGERT
Represented by:
NORMAN M. SEMANKO
PO BOX 1906
TWIN FALLS, ID 83303
Phone: 208-734-0700

WILLIAM A. SEEFRIED
ROUTE 1
MACKAY, ID 83251

CERTIFICATE OF MAILING

PAGE 1
12/30/97

WILLIAM A. SEEFRIED
SEEFRIED, HOLLY C.
ROUTE 1
MACKAY, ID 83251

HOLLY C SEEFRIED
WILLIAM A. SEEFRIED
4399 HOUSTON RD
MACKAY, ID 83251
Phone: 208-588-3330

DIANA DELANEY
Chief Deputy Clerk