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Department of Water Resources

2002 FEB -6 PM 2:11

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	)	For Decreed Water Right 34-07118
	)	(Split administratively into water rights 34-07118A & 34-
	)	07118B.)
Case No. 39576	)	
_____	)	ORDER AMENDING IRRIGATION PERIOD OF USE
	)	ELEMENT IN PARTIAL DECREE and
	)	INCORPORATING INTO PARTIAL DECREE AN
	)	EXPRESS STATEMENT REGARDING GENERAL
	)	PROVISIONS, <i>NUNC PRO TUNC</i>

A *Partial Decree* was entered for water right 34-07118 ("decreed water right") on December 16, 1997. The period of use element therein 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. On June 24, 1999, the Idaho Department of Water Resources (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* ("*Supplemental Director's Report*"), which included irrigation period of use recommendations for the decreed water right. No objections were filed and the time for filing objections has expired. Following the issuance of the *Supplemental Director's Report*, the decreed water right was split administratively into multiple water rights designated as 34-07118A and 34-07118B ("split water rights").¹

¹ Some or all of these split water rights may have again been split or affected by subsequent administrative proceedings. However, this *Order* only amends the *Partial Decree* that was issued for the decreed water right and does not affect any administrative changes to the water right occurring subsequent to the entry of the *Partial Decree*.

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

PERIOD OF USE: 04-01 to 11-1

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

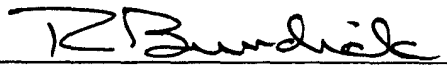
This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the court a point in time no later than the entry of a final unified decree. I.C. section 42-1412(6).

IT IS FURTHER ORDERED that this order is being entered *nunc pro tunc* effective as of the date the *Partial Decree* was issued and shall not supercede any subsequent administrative changes to the water right that may have 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: 2-5-02



ROGER BURDICK
Presiding Judge
Snake River Basin Adjudication

Important Information About Your Water Right

February 5, 2002

Soelberg Farms Partnership
1482 Three Fountains Drive
Idaho Falls, ID 83404

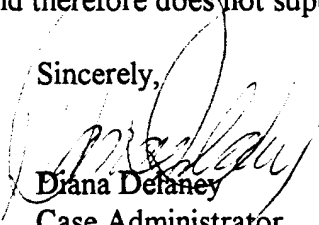
Dear Water Right Claimant(s):

This letter accompanies a copy of an *Order Amending Irrigation Period of Use Element in Partial Decree, and Incorporating into Partial Decree Express Statement Regarding General Provisions, Nunc Pro Tunc* (hereinafter "*Order*") issued for water right number 34-07118. Following the issuance of the *Partial Decree* for water right 34-07118, the water right was split into multiple water rights pursuant to administrative proceedings conducted before the Idaho Department of Water Resources (IDWR). According to the records of IDWR, you are the current owner of water right 34-07118A,¹ which represents a water right resulting from the split of water right 34-07118. If you are not the current owner, please contact IDWR immediately at:

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 water right 34-07118. 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). The *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 water right 34-07118, sets forth all of the elements from which your water right is derived. (Again, your water right was split from water right 34-07118.) 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 this water right. The original of the *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 on the same date that the *Partial Decree* was originally issued and therefore does not supercede any administrative changes occurring after that date.

Sincerely,


Diana Defaney
Case Administrator

¹ If water right 34-07118A is not listed as one of the split rights in the caption of the accompanying *Order*, it is because one of the captioned split rights was again split. This resulted in more split water rights including your water right. However, for purposes of the *Order*, these subsequently split rights need not be addressed, as they are not affected by the *Order*. If you have questions regarding your water right please contact IDWR.

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

Important Information About Your Water Right

February 5, 2002

Gary Rogers
3403 N Hwy 93
Moore, ID 83255

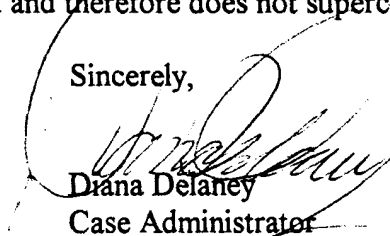
Dear Water Right Claimant(s):

This letter accompanies a copy of an ***Order Amending Irrigation Period of Use Element in Partial Decree, and Incorporating into Partial Decree Express Statement Regarding General Provisions, Nunc Pro Tunc*** (hereinafter "***Order***") issued for water right number 34-07118. Following the issuance of the ***Partial Decree*** for water right 34-07118, the water right was split into multiple water rights pursuant to administrative proceedings conducted before the Idaho Department of Water Resources (IDWR). According to the records of IDWR, you are the current owner of water right 34-07118B,¹ which represents a water right resulting from the split of water right 34-07118. If you are not the current owner, please contact IDWR immediately at:

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 water right 34-07118. 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). The ***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 water right 34-07118, sets forth all of the elements from which your water right is derived. (Again, your water right was split from water right 34-07118.) 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 this water right. The original of the ***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 on the same date that the ***Partial Decree*** was originally issued and therefore does not supercede any administrative changes occurring after that date.

Sincerely,


Diana Delaney
Case Administrator

¹ If water right 34-07118B is not listed as one of the split rights in the caption of the accompanying ***Order***, it is because one of the captioned split rights was again split. This resulted in more split water rights including your water right. However, for purposes of the ***Order***, these subsequently split rights need not be addressed, as they are not affected by the ***Order***. If you have questions regarding your water right please contact IDWR.

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 34-07118

1997 DEC 16 AM 11:11

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED _____

NAME & ADDRESS: SOELBERG FARMS PARTNERSHIP
C/O DEXTER DOUGLAS
RT 1 BOX 394
ARCO ID 83213

SOURCE: GROUNDWATER

QUANTITY: 15.9 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 2779 AF.
COMBINED RIGHT NOS.: 34-07186A AND 34-07186B.

PRIORITY DATE: 11/24/1975

POINT OF DIVERSION: T05N R26E S32 SENWSE Within BUTTE County
SWSWSE
SESWSSE

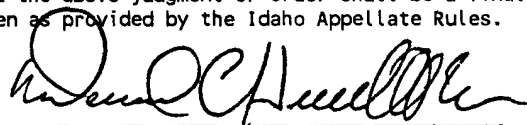
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	Irrigation Season	15.9 CFS

PLACE OF USE:	IRRIGATION	Within BUTTE County			
	T03N R26E S07	NESW 37	Lot 3 (NWSW)36	Lot 4 (SWSW)36	SESW 37
		NESE 36	NWSE 36	SWSE 36	SESE 36
	S08	NESW 33	NWSW 36	SWSW 36	SESW 36
		NESE 8	NWSE 23	SWSE 34	SESE 34
	S16	NENW 33	NWNW 33	SWNW 33	SENW 33
		NESW 33	NWSW 33	SWSW 33	SESW 33
	794 ACRES TOTAL				

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 794 ACRES IN A SINGLE
IRRIGATION SEASON.
COMBINED RIGHT NOS.: 34-07186A AND 34-07186B.

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