2001 Dec 14 PM 1:30
District Court-SRBA
Twin Falls, Idaho
Filed: drd

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 34-00247**
Case No. 39576	**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 December 08, 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, 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

ROGER BURDICK
Presiding Judge
Snake River Basin Adjudication

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

Important Information About Your Water Right

December 14, 2001

MELVIN ELLWEIN
VIVIAN ELLWEIN
ROUTE 1
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 34-00247. 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 necesssary 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 December 08, 1997, 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	)	PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b) FOR
Case No. 39576	)	Water Right 34-00247

-8 PM 1:20
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO

NAME & ADDRESS: MELVIN ELLWEIN
VIVIAN ELLWEIN
ROUTE 1
MACKAY ID 83251

SOURCE: BIG LOST RIVER TRIBUTARY: SINKS

QUANTITY: 0.6 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 4.86 CFS.
COMBINED RIGHT NOS.: 34-00246, 34-00248 AND 34-07197B.

PRIORITY DATE: 06/01/1904

POINT OF DIVERSION: T07N R24E S33 NWSWNE Within CUSTER County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	Irrigation Season	0.6 CFS

PLACE OF USE: IRRIGATION Within CUSTER County

T06N R24E S12	NENE 1	SENE 24	NESW 1		
R25E S06	NWSE 3	SWSE 35	SESE 8		
S07	NENE 1	NWNE 7	NENW 16	Lot 1 (NWNW) 4	
Lot 2 (SWNW)30		SENW 22	NESW 3		

155 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 163 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 34-00246, 34-00248 AND 34-07197B.
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 30 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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