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Department of Water Resources

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CLERK
T. IDAHO
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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

Subcase 34-10619

ORDER CORRECTING CLERICAL ERROR;
I.R.C.P. 60(a)

On November 2, 2001, an *Order Amending Irrigation Period of Use Element in Partial Decree and Incorporating Into Partial Decrees an Express Statement Regarding General Provisions* ("Order Amending Irrigation Period") was issued for the above-captioned water right. Attached to the *Order Amending Irrigation Period* was a *Partial Decree* (also dated November 2, 2001) which the Clerk generated from the IWATRS computer system. This newly generated *Partial Decree* should not have been included and was in error.¹

Therefore, pursuant to I.R.C.P. 60(a), IT IS ORDERED that the *Partial Decree* entered on November 2, 2001 is stricken from the record in this subcase. Accordingly, the elements of this water right consists of those set forth in the original *Partial Decree* issued on December 31, 1997, as amended by the November 2, 2001, *Order Amending Irrigation Period*.

DATED: 11-16-01

Roger Burdick

ROGER S. BURDICK
Presiding Judge
Snake River Basin Adjudication

¹ The newly generated *Partial Decree* did not include changes that were recommended by the Special Master pursuant to an SF-5.

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER CORRECTING CLERICAL ERROR was mailed on November 16, 2001, with sufficient first-class postage to the following:

STATE OF IDAHO

Represented by:
HARRIET A. HENSLEY
PO BOX 83720
BOISE, ID 83720-0010
Phone: 208-334-4543

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

MOUNTAIN SPRINGS RANCH LLC
5550 BARTON FLAT RD
MACKAY, ID 83251

MOUNTAIN SPRINGS RANCH LLC
5550 BARTON FLAT ROAD
MACKAY, ID 83251
Phone: 208-588-3110

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Idaho Department of Water Resources

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED RA

**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 34-10619
	)	
	)	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 31, 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. On July 30, 1999, Claimant Mountain Springs Ranch filed an objection to the irrigation season and general provisions and on September 8, 1999, a response to the objection was filed by the State of Idaho.

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:	IRRIGATION	05-01 TO 10-15
	STOCKWATER	01-01 TO 12-31

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 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 11-2-01



ROGER 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 2001 NOV -2 PM 12: 52
I.R.C.P. 54(b) FOR

Water Right 34-10619

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED RD

NAME AND ADDRESS: MOUNTAIN SPRINGS RANCH LLC
5550 BARTON FLAT RD
MACKAY, ID 83251

SOURCE: BIG LOST RIVER TRIBUTARY: SINKS

QUANTITY: 5.20 CFS

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

THE PORTION OF THIS RIGHT FOR STOCKWATER PURPOSES MAY BE
DIVERTED SO LONG AS THE AMOUNT OF WATER DIVERTED AT THE POINT OF
DIVERSION FOR STOCKWATER PURPOSES DOES NOT CONSTITUTE
UNREASONABLE WASTE AND DOES NOT CONFLICT WITH THE PUBLIC
INTEREST, AS DETERMINED BY THE DIRECTOR.

PRIORITY DATE: 08/01/1891

POINT OF DIVERSION: T08N R21E S12 NENWNW Within Custer 0001 County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	05-01 TO 10-15	5.20 CFS
	Stockwater	01-01 TO 12-31	2.00 CFS

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.

PLACE OF USE:	Irrigation		Within Custer	0001 County
	T09N R22E S19	SWSE 40.0	SESE 40.0	
	S20	NESW 20.0	NWSW 20.0	
		SWSW 40.0	SESW 40.0	
	S29	NENW 40.0	NWNW 40.0	
	S30	NENE 40.0	NWNE 40.0	
		SWNE 30.0	SENE 40.0	
		NENW 40.0	LOT 01 (NWNW) 40.0	
	LOT 02 (SWNW) 30.0		SENE 25.0	
	565.0 Acres Total			
	Stockwater		Within Custer	0001 County
	Same as Irrigation			

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).

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER AMENDING IRRIGATION PERIOD OF USE ELEMENT IN PARTIAL DECREE was mailed on November 02, 2001, with sufficient first-class postage to the following:

STATE OF IDAHO

Represented by:
HARRIET A. HENSLEY
PO BOX 83720
BOISE, ID 83720-0010
Phone: 208-334-4543

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

MOUNTAIN SPRINGS RANCH LLC
5550 BARTON FLAT RD
MACKAY, ID 83251

MOUNTAIN SPRINGS RANCH LLC
5550 BARTON FLAT ROAD
MACKAY, ID 83251
Phone: 208-588-3110

1997 DEC 31 PM 3: 43

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 34-10619
_____	)	

On November 20, 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 34-10619 is hereby **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED DEC 31 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 34-10619

1997 DEC 31 PM 3:43

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

NAME & ADDRESS: MOUNTAIN SPRINGS RANCH LLC
5550 BARTON FLAT RD
MACKAY ID 83251

SOURCE: BIG LOST RIVER TRIBUTARY: SINKS

QUANTITY: 5.2 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.

PRIORITY DATE: 08/01/1891

POINT OF DIVERSION: T08N R21E S12 NENWNW Within CUSTER County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	Irrigation Season	5.2 CFS
	STOCKWATER	01-01 12-31	2.00 CFS

PLACE OF USE:	IRRIGATION	Within CUSTER County
	T09N R22E S19	SWSE 40 SESE 40
	S20	NESW 20 NWSW 20 SWSW 40 SESW 40
	S29	NENW 40 NWNW 40
	S30	NENE 40 NWNE 40 SWNE 30 SENE 40
		NENW 40 Lot 1 (NWNW)40 Lot 2 (SWNW)30 SENW 25
	565 ACRES TOTAL	

USE OF THIS RIGHT WITH RIGHT NOS. 34-00103, 34-00347,
34-00208B AND 34-10620 IS LIMITED TO THE IRRIGATION OF A COMBINED
TOTAL OF 996 ACRES IN A SINGLE IRRIGATION SEASON.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 260 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

Place of use for STOCKWATER is same as IRRIGATION

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

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

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

PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 34-10619

1997 DEC 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)
)
Case No. 39576)

)

CERTIFICATE OF MAILING

Water Right(s) : 34-10619

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 34-10619 was mailed
on December 31, 1997, with sufficient first-class postage prepaid
to the following:

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

MOUNTAIN SPRINGS RANCH LLC
Represented by:
PATRICK D. BROWN
PO BOX 389
TWIN FALLS, ID 83303
Phone: 208-734-7510

DIANA DELANEY
Chief Deputy Clerk