

2001 SEP 17 PM 2:32

DISTRICT COURT
TWIN FALLS, IDAHO
FILED *DMO*

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 34-10558
	)	
	)	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 8, 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 LLC filed an objection to the season of use recommendation, but withdrew the objection on April 20, 2001.

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: 05-01 to 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 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 September 17, 2001.



ROGER BURDICK

Presiding Judge
Snake River Basin Adjudication

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 September 17, 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
Phone: 208-588-2805

Littie Messick

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 34-10558

1997 DEC -8 PM 4:07

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

SOURCE: BIG LOST RIVER TRIBUTARY: SINKS

QUANTITY: 2.74 CFS

PRIORITY DATE: 06/01/1899

POINT OF DIVERSION: T08N R21E S15 NESWNW Within CUSTER County

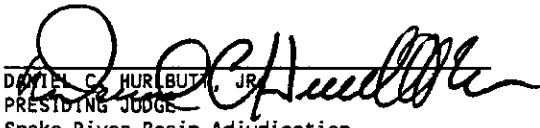
PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
IRRIGATION Irrigation Season 2.74 CFS

PLACE OF USE: IRRIGATION Within CUSTER County
T08N R22E S14
S15
300 ACRES TOTAL
NWNE 2 SWNE 16 NENW 38 SENW 40
NESW 40 NWSW 40 SWSW 9 SESW 40
NWSE 29 SWSE 38
NESE 8

USE OF THIS RIGHT WITH THE RIGHTS LISTED ABOVE IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 300 ACRES IN A SINGLE
IRRIGATION SEASON.
COMBINED RIGHT NOS.: 34-00139, 34-00145 AND 34-10557.
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 137 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.


DAVID C. HURLBUT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication