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CLERK OF DISTRICT COURT

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

SEP 26 2001

By _____ Clerk
Deputy Clerk

**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 34-10538
	)	
	)	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 February 24, 1998. 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, through its counsel of record Patrick Brown, 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 26, 2001



ROGER BURDICK
Presiding Judge
Snake River Basin Adjudication

2001 SEP 26 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): 34-10538

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 34-10538 was mailed
on September 26, 2001, 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
NATURAL RESOURCES
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720-0010
Phone: 208-334-2400

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

CERTIFICATE OF MAILING

PAGE 1
09/26/01

SAN FELIPE RANCH

Represented by:
PATRICK D. BROWN
109 S ADAMS ST
JEROME, ID 83338
Phone: 208-644-1967

USDI BLM

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724
Phone: 208-387-0835

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

DIANA DELANEY
Chief Deputy Clerk

FILED IN 12-0-10
CLERK OF DISTRICT COURT
TWIN FALLS, IDAHO
JAN 13 1998

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

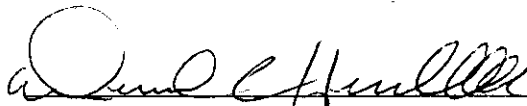
In Re SRBA	)	ORDER OF PARTIAL DECREE
	)	
Case No. 39576	)	For Water Right 34-10538
_____	)	

On October 16, 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 34-10538 is hereby **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED February 24, 1998.



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 34-10538

NOV 24 11 01 AM '98
DISTRICT COURT - SRBA
TWIN FALLS, IDAHO
FILED

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

SOURCE: UPPER CEDAR CREEK TRIBUTARY: SINKS

QUANTITY: 19.6 CFS

USE OF THIS RIGHT WITH RIGHT NO. 34-12399 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 23.4 CFS.

PRIORITY DATE: 07/01/1910

POINT OF DIVERSION: T08N R24E S19 NWSW Within CUSTER County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	IRRIGATION	Irrigation Season	19.6 CFS
STOCKWATER	STOCKWATER	01-01 12-31	1.00 CFS

PLACE OF USE:	IRRIGATION	Within CUSTER County		
T08N R23E S25	NWNE 40	SWNE 40	NENW 40	NWNW 35
	SWNW 40	SENE 30	NESW 35	NWSW 35
	SWSW 20	NWSE 40		
S26	SWSE 35	SESE 40		
S35	NENE 40	NWNE 40	SWNE 40	SENE 35
585 ACRES TOTAL				

USE OF THIS RIGHT WITH RIGHT NO. 34-12399 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 585 ACRES IN A SINGLE
IRRIGATION SEASON.

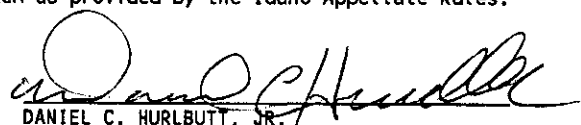
STOCKWATER	Within CUSTER County		
T08N R23E S25	NWNE	SWNE	NENW
	SENE	NWSW	SWSW
S35	NENE	SENE	NWSE

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

1998 FEB 24 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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In Re SRBA)
)
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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

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

CERTIFICATE OF MAILING

PAGE 1
02/24/98

USDI BLM

Represented by:
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BOISE, ID 83724
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DIANA DELANEY
Chief Deputy Clerk