

## Stanton, Jim

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**From:** Keen, Shelley  
**Sent:** Wednesday, September 07, 2005 7:49 AM  
**To:** Stanton, Jim  
**Subject:** RE: Request For Correction of Records Error, Rt. 41-3

Done.

-----Original Message-----

**From:** Stanton, Jim  
**Sent:** Tuesday, September 06, 2005 8:24 AM  
**To:** Keen, Shelley  
**Cc:** Stanton, Jim  
**Subject:** Request For Correction of Records Error, Rt. 41-3

Shelley - I came to my attention that the period of use for this rights is recorded incorrectly in the database. The amended SRBA decree shows use from 4-1 to 6-30 AND 9-1 to 10-31. The watermaster had some questions about this right, and I noticed that the proof report only has the first period. I printed the actual decree showing both periods of use. Please get this corrected. Thanks.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

September 6, 2005

James Robinson  
PO Box 157  
Rockland, ID 83271

RE: Water District 41, Rock Creek & Tributaries

Dear Mr. Robinson;

As we discussed, Water Right 41-3 (Farold Nelson) has a priority date of 5-14-1880 for the periods of 4-1 to 6-30 and 9-1 to 10-31. The fall use period was somehow left off of our record for this right, but I have asked our Boise office to correct this. The SRBA decree is the controlling factor, and you are correctly delivering the right according to the decree. Regardless of the local water supply, the right is not deliverable during July and August.

If you have further questions, feel free to contact me.

Regards,

James E. Stanton  
Sr. Water Resource Agent

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

AMENDED

In Re SRBA )  
                  ) PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  ) Water Right 41-00003

2001 MAR 12 PM 5:12  
DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED

NAME AND ADDRESS: FAROLD J NELSON  
                          PO BOX 177  
                          AMERICAN FALLS, ID 83271

SOURCE: ROCK CREEK, SOUTH FORK           TRIBUTARY: ROCK CREEK  
          LANDING CREEK                    ROCK CREEK, SOUTH FORK

QUANTITY: 2.00 CFS

THE QUANTITY LISTED ABOVE SHALL BE MEASURED AT THE POINT OF  
DIVERSION LISTED FOR THIS RIGHT BY MEANS OF A MEASURING BOX OF  
THE TYPE AND DIMENSIONS DECREED BY IN RE HOUTZ ET AL (ONEIDA  
COUNTY, SIXTH JUDICIAL DISTRICT COURT, JUNE 6, 1903). ANY CHANGE  
IN THE METHOD OF MEASUREMENT SHALL CONSTITUTE A CHANGE IN THE  
POINT OF DIVERSION REQUIRING APPROVAL BY THE IDAHO DEPARTMENT OF  
WATER RESOURCES AS A TRANSFER PURSUANT TO I.C. SECTION 42-222.

PRIORITY DATE: 05/14/1880

POINT OF DIVERSION: T11S R31E S04           NWSWSW           Within Power County  
                                  S22           SWSSEW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 06-30	2.00 CFS
	Irrigation	09-01 TO 10-31	2.00 CFS

PLACE OF USE: Irrigation                                   Within Power County  
                  T11S R31E S04 LOT 02 (NWNE) 4.8           SWNE 5.3  
                                  LOT 03 (NENW)34.0       LOT 04 (NWNW) 8.9  
  SNNW 22.0           SENE 35.0  
                  110.0 Acres Total

USE OF THIS RIGHT WITH RIGHT NOS. 41-00009A, 41-10267 &  
41-10268 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 110  
ACRES IN A SINGLE IRRIGATION SEASON.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 100 ACRES WITHIN  
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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).

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

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.

A handwritten signature in cursive script, reading "R Burdick", is written above a horizontal line.

Roger Burdick  
Presiding Judge of the  
Snake River Basin Adjudication

**RECEIVED**

**MAR 13 2001**

Department of Water Resources

2001 MAR 12 PM 2: 24

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**

<b>In Re SRBA</b>    <b>Case No. 39576</b>  <hr/>	) ) ) ) ) ) )	<b>Water Rights: See Attached Exhibit A</b>  <b>ORDER AMENDING PARTIAL DECREES</b> <b>NUNC PRO TUNC TO CORRECT OMISSIONS</b> <b>IN PARTIAL DECREES ISSUED FOR</b> <b>UNCONTESTED WATER RIGHTS IN</b> <b>BASIN 41, I.R.C.P. 60(a)</b>
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On July 28, 2000, this Court issued the *Partial Decrees Pursuant to I.R.C.P. 54(b)* for the uncontested water rights reported in the *Director's Reports for Irrigation and Other, Reporting Area 7, IDWR Basin 41*. Subsequently, the Court was notified of errors in certain of those Partial Decrees. After reviewing the Director's Reports and the Partial Decrees, it was determined that the Partial Decrees listed in Exhibit A to this Order omitted comments contained in the elements that were recommended in the Director's Report.

Therefore, pursuant to I.R.C.P. 60(a), IT IS ORDERED that the *Partial Decrees Pursuant to I.R.C.P. 54(b)* for the water rights listed in the attached Exhibit A are hereby amended *nunc pro tunc* to correct the clerical omission as set forth in the respective attached *Amended Partial Decrees Pursuant to I.R.C.P. 54(b)*

Dated March 12, 2001.

EXHIBIT A

Subcase Nos:

41-00002A	41-00038A	41-10259
41-00002B	41-00039	41-10260
41-00003	41-00040A	41-10261
41-00004A	41-00040B	41-10262
41-00004C	41-00040C	41-10264
41-00005	41-00041A	41-10265
41-00006	41-00041B	41-10266
41-00007	41-00046	41-10267
41-00008C	41-00049	41-10268
41-00008D	41-00050	
41-00008E	41-00051A	
41-00008F	41-00051B	
41-00009A	41-02001	
41-00009B	41-04012A	
41-00012	41-04012B	
41-00013C	41-04013A	
41-00015A	41-04013B	
41-00016	41-04014	
41-00018	41-04023	
41-00019	41-04025	
41-00020A	41-07046	
41-00020B	41-07074	
41-00020C	41-10009	
41-00020D	41-10080	
41-00021A	41-10085	
41-00021B	41-10091A	
41-00022	41-10091B	
41-00023	41-10139	
41-00024A	41-10229	
41-00025A	41-10230	
41-00025B	41-10232	
41-00025C	41-10233	
41-00027B	41-10234	
41-00027D	41-10236	
41-00028	41-10237	
41-00030A	41-10240	
41-00030B	41-10241	
41-00031A	41-10243	
41-00032B	41-10244	

2000 JUL 28 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 )  
                  ) PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  ) Water Right 41-00003

NAME AND ADDRESS: FAROLD J NELSON  
                          PO BOX 177  
                          AMERICAN FALLS, ID 83271

SOURCE: ROCK CREEK, SOUTH FORK                   TRIBUTARY: ROCK CREEK  
          LANDING CREEK                               ROCK CREEK, SOUTH FORK

QUANTITY: 2.00 CFS

PRIORITY DATE: 05/14/1880

POINT OF DIVERSION: T11S R31E S04           NWSWSW           Within Power County  
  S22           SWSSENW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 06-30	2.00 CFS
	Irrigation	09-01 TO 10-31	2.00 CFS

PLACE OF USE: Irrigation   Within Power County  
                          T11S R31E S04 LOT 02 (NWNE) 4.8           SWNE 5.3  
  LOT 03 (NENW) 34.0       LOT 04 (NNW) 8.9  
  SWNW 22.0           SENE 35.0  
                          110.0 Acres Total

USE OF THIS RIGHT WITH RIGHT NOS. 41-00009A, 41-10267 &  
41-10268 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 110  
ACRES IN A SINGLE IRRIGATION SEASON.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 100 ACRES WITHIN  
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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).

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

IDAHO DEPARTMENT OF WATER RESOURCES  
Water Right Report 41-3

WATER RIGHT NUMBER: 41-3

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	FAROLD J NELSON PO BOX 177 ROCKLAND, ID 83271 (208)548-2261

Priority Date: 05/14/1880  
Basis: Decreed  
Status: Active

<u>Source</u>	<u>Tributary</u>
LANDING CREEK SOUTH FORK ROCK CREEK	SOUTH FORK ROCK CREEK ROCK CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 6/30	2.000 CFS	
	<u>Total Diversion:</u>	2.000 CFS	

<u>Location of Point(s) of Diversion</u>			
LANDING CREEK POWER County	SW1/4SE1/4NW1/4	Sec. 22,	Twp 11S, Rge 31E, B.M.
SOUTH FORK ROCK CREEK POWER County	NW1/4SW1/4SW1/4	Sec. 4,	Twp 11S, Rge 31E, B.M.

Place of Use  
IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S	31E	4		4.8	5.3		34.0	8.9	22.0	35.0									110.0
				L 2			L 3	L 4											

Total Acres: 110

Conditions of Approval:

1. C18 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. SECTION 42-1412(6), IDAHO CODE.
2. N16 THE QUANTITY LISTED ABOVE SHALL BE MEASURED AT THE POINT OF DIVERSION LISTED FOR THIS RIGHT BY MEANS OF A MEASURING BOX OF THE TYPE AND DIMENSIONS DECREED BY IN RE HOUTZ ET AL (ONEIDA COUNTY, SIXTH JUDICIAL DISTRICT COURT, JUNE 6, 1903). ANY CHANGE IN THE METHOD OF MEASUREMENT SHALL CONSTITUTE A CHANGE IN THE POINT OF DIVERSION REQUIRING APPROVAL BY THE IDAHO DEPARTMENT OF WATER RESOURCES AS A TRANSFER PURSUANT TO I.C. SECTION 42-222.



IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 41-3

- 3. USE OF THIS RIGHT WITH RIGHT NOS. 41-00009A, 41-10267 & 41-10268 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 110 ACRES IN A SINGLE IRRIGATION SEASON. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 100 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

Remarks:

Comments:

1. SCLELLAN 6/14/1999 COPIED FROM REMARKS  
 Comment: RT. IS FOR 1.7 CFS FROM SOUTH FORK & 0.3 CFS FROM LANDING CR. AC. IRRIG. = 100. ALSO SEE TAYSOM ET AL VS UDY ET AL DECREE, 11-6-1947. THE SUPPORTING DOCUMENT IS NOT A DECREE BUT IS MERELY AN ARBITRATOR'S FINDINGS AND CONCLUSIONS. THE ONLY PARTY LISTED IS PLEADINGS IS H. P. HOUTZ. ALSO SEE CLAIM A41-00004B FOR AN ADDITIONAL 0.30 CFS. SEE ATTACHED COURT ORDER CASE # 7307 FOR 0.30 CFS CLAIMANT CLAIMS AS A FULL SEASON WATER RIGHT.

2. DJONES 10/21/1999 RECOMMENDATION  
 Comment: PRELIMINARY RECOMMENDATION AMENDED TO REFLECT PERMISSIBLE PLACE OF USE IN CONJUNCTION WITH 41-00009A AND HIGH WATER CLAIMS 41-10267 AND 41-10268.

3. AJU10-DJ 10/28/1999 AJU10 CONDITION UPDATE  
 Comment: CONDITION CODE(S) N16 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.

4. AJU10-DJ 10/29/1999 AJU10 CONDITION UPDATE  
 Comment: CONDITION CODE(S) C18 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.

Dates and Other Information:

Licensed Date:  
 Decreed Date: 3/12/2001  
 Water Supply Bank Enrollment Accepted:  
 Water Supply Bank Enrollment Removed:  
 Enlargement Use Priority Date:  
 Enlargement Statute Priority Date:  
 State or Federal: S  
 Owner Name Connector:  
 Water District Number: 41  
 Generic Max Rate Per Acre:  
 Generic Max Volume Per Acre:  
 Decree Defendant:  
 Decree Plaintiff:  
 Civil Case Number: 39576  
 Judicial District: FIFTH  
 Swan Falls Trust or Nontrust:  
 Swan Falls Dismissed:  
 DLE Act Number:  
 Carey Act Number:  
 Mitigation Plan: False

Combined Use Limits:

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
		110
Combined Water Rights: 41-3 , 41-9A , 41-10268 , 41-10267		