

2004 MAR 15 AM 11 50

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

)
)
) **ORDER DISMISSING MOTION TO SET**
) **ASIDE PARTIAL DECREES and**
) **SETTING ASIDE PARTIAL DECREE**
) **and ISSUING PARTIAL DECREE**
)
) **For water rights: 31-02357, 31-02395**
) **31-07311**

A *Partial Decree* was filed by this Court on February 22, 2002, for the above water rights. On April 15, 2003, a letter from claimant was received by the Court indicating disagreement with certain of the decreed elements in the above-captioned rights. On April 24, 2003 the Court issued an *Order of Reference to Special Master Brigitte Bilyeu*. On July 15, 2003 a *Motion to Set Aside and Vacate the Partial Decree and to Allow the Filing of a Late Objection* was filed only in regards to 31-07311.

On January 30, 2004, a *Special Master's Order Recommending Partial Decree Be Set Aside* was filed for the above-claimed rights. No Challenges were filed to the *Special Master's Order*, and the time for filing Challenges has now expired.

Pursuant 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 the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED, that the *Motion to Set Aside Partial Decrees* for 31-02357 and 31-02395 be dismissed with prejudice.

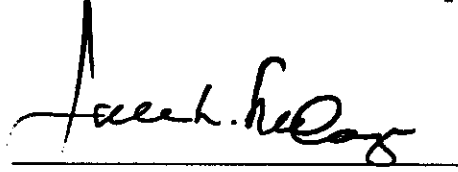
IT IS FURTHER ORDERED that the *Partial Decree* for 31-07311 be set aside and an *Amended Partial Decree* for Water Right 31-07311 be decreed with elements as set forth as in the attached *Amended Partial Decree* pursuant to I.R.C.P. 54(b).

IT IS FURTHER ORDERED that the Idaho Department of Water Resources file an *Amended Director's Report* addressing only the uncultivated land referred to

previously in the *Partial Decree* for 31-07311 under a new water right claim number; and that IDWR file an *Amended Director's Report* so that it may be included in the forthcoming IDWR *Director's Report For Late Claims*. IDWR should provide notice of an objection and response period upon the filing of the *Amended Director's Report*.

Dated

3/15/04

A handwritten signature in black ink, appearing to read "John M. Melanson", written over a horizontal line.

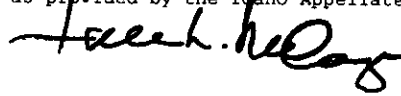
JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

AMENDED

FILED

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.



John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER DISMISSING MOTION TO SET ASIDE PARTIAL DECREES AND SETTING ASIDE PARTIAL DECREE & ISSUING AMENDED PARTIAL DECREE was mailed on March 15, 2004, with sufficient first-class postage to the following:

BEN D JERNBERG

Represented by:

ROGER D LING

PO BOX 396

RUPERT, ID 83350

Phone: 208-436-4717

DIRECTOR OF IDWR

PO BOX 83720

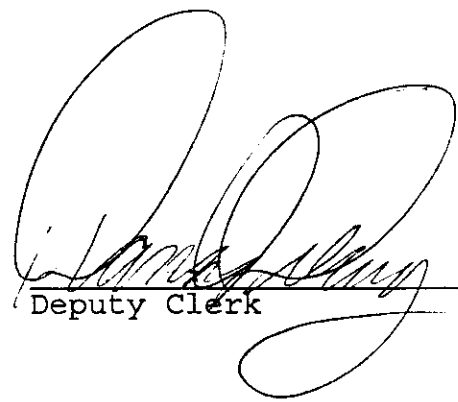
BOISE, ID 83720-0098

BEN D JERNBERG

3170 SYCAMORE LN

BILLINGS, MT 59102

Phone: 406-252-6072

A large, stylized handwritten signature in black ink, likely belonging to the Deputy Clerk, is written over a horizontal line.