

2004 JUL -7 PM 4:15
CLERK OF DISTRICT COURT
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

)
)
) **NOTICE OF COURT'S INTENT TO**
) **ISSUE AMENDED PARTIAL DECREES,**
) **AND NOTICE OF HEARING THEREON**
)
) **For water rights: 65-22859, 65-22860**
)
)
)

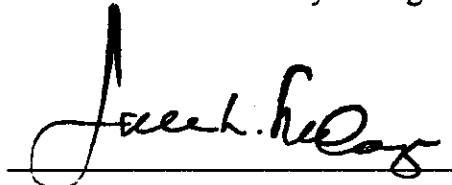
On February 2, 2004, the Idaho Department of Water Resources filed *Notices of Completed Administrative Proceedings and Amended Director's Reports* in the above subcases. No objections were filed to the *Amended Director's Reports*. On March 11, 2004 *Special Master's Reports and Recommendations* were filed in the above subcases, recommending that water rights 65-22859 and 65-22860 be decreed. On March 24, 2004, correspondence was received by the Special Master from the Idaho Department of Water Resources stating that a clerical error had been made in the *Amended Director's Reports*. No action was taken by the Court in response to this correspondence, and the *Recommendations* were not changed. Pursuant to the *Recommendations*, *Partial Decrees* were filed by this Court on May 25, 2004 ordering water rights 65-22859 and 65-22860 decreed.

IDWR's clerical error, which involved restrictions in the quantity allowed to be used under each water right, is reflected in the *Partial Decrees*. Accordingly, it is the Court's intent to issue *Amended Partial Decrees* pursuant to IRCP 60(a) to correct these errors in accordance with the attached.

Therefore, IT IS ORDERED, that a **Hearing be set for the above subcases at 1:30 p.m. on July 20 at the Snake River Basin Adjudication Courthouse, 253 3rd Ave. North, Twin Falls, Idaho.** Any party wishing to object or comment on the Court's proposed action shall do so at that time. Attendance

at this hearing by the claimants is not required, as the Court will take the proposed actions in the absence of any objection to the contrary. Telephone participation will be available by calling 1-918-583-3445 and entering 406128 when prompted.

Dated June 7, 2004

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

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 65-22859

NAME AND ADDRESS: ELVIN C SCHMELZER
HC 78 BOX 3839
OLA, ID 83657

BETTY LUE SCHMELZER
5315 MONTOUR RD
EMMETT, ID 83617

SOURCE: SQUAW CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.02 CFS

THIS RIGHT WHEN COMBINED WITH RIGHT NOS. 65-3099 AND
65-22860 SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE.

PRIORITY DATE: 05/09/1967

POINT OF DIVERSION: T09N R01E S03 SWSE Within Gem County
SESE
S10 SWNE
NENE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	0.02 CFS

PLACE OF USE: Irrigation Within Gem County
T09N R01E S10 SENE 2.0
2.0 Acres Total

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

Basin 65 General Provisions No. 3, the Separate Streams
General Provision, does not apply to appropriations of water
after October 18, 1977.

This water right shall be administered as being from a
separate source pursuant to Basin 65 General Provision No. 3.
If the holder of this right seeks to change the right pursuant
to Idaho Code Section 42-222 or successor statute, nothing in
this general provision shall preclude any other person or entity
from demonstrating that such change in use would cause injury to
its water right or from receiving any relief provided by law in
the event of injury.

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).

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 65-22860

NAME AND ADDRESS: WESTERN RANCH EQUITIES LLC
20 WALDEN CT
YORK, PA 17404

SOURCE: SQUAW CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.81 CFS

THIS RIGHT WHEN COMBINED WITH RIGHT NOS. 65-3099 AND
65-22859 SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE.

PRIORITY DATE: 05/09/1967

POINT OF DIVERSION: T09N R01E S03 SWSE Within Gem County
SESE
S10 SWNE
NENE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	0.81 CFS

PLACE OF USE:	Irrigation	Within Gem County
	T09N R01E S03	NWSE 1.0 SWSE 5.0
		SESE 22.0
	S10	NENE 29.0
		SWNE 2.0
	S11	NWNW 16.0
	81.0 Acres Total	

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

Basin 65 General Provisions No. 3, the Separate Streams
General Provision, does not apply to appropriations of water
after October 18, 1977.

This water right shall be administered as being from a
separate source pursuant to Basin 65 General Provision No. 3.
If the holder of this right seeks to change the right pursuant
to Idaho Code Section 42-222 or successor statute, nothing in
this general provision shall preclude any other person or entity
from demonstrating that such change in use would cause injury to
its water right or from receiving any relief provided by law in
the event of injury.

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 NOTICE OF COURT'S INTENT TO ISSUE AMENDED PARTIAL DECREES AND NOTICE OF HEARING THEREON was mailed on June 07, 2004, with sufficient first-class postage to the following:

ELVIN C SCHMELZER
HC 78 BOX 3839
OLA, ID 83657

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

WESTERN RANCH EQUITIES LLC
20 WALDEN CT
YORK, PA 17404

BETTY LUE SCHMELZER
5315 MONTOUR RD
EMMETT, ID 83617