

FAX

June 15, 2004

TO: Debbie Lash, SRBA Court

FROM: Scott Beazer, BLM -- ISO

RE: 27-11759

*Docket as
NTH to Set Aside
modify*

Debbie,

I ran across an issue and was wondering if you could help. BLM filed an objection to BLM PWR claim 27-11759 on 09/16/1998 to include a lot description for the parenthetical tract description. On 11/17/2003, Fred Price filed an affidavit (27-11580 et al.) with the court that identified the need for a lot description as well. He seems to recall that at the evidentiary hearing, the court was going to make the change rather than require the parties to file an SF-5.

On 03/04/2004, the court issued a SMRR that did not address BLM's objection. Subsequently, on 05/04/2004, the Partial Decree was issued.

On 01/20/04, an SF-5 was delivered to Roxanne Brown and then signed on 06/02/04. The SF-5 was delivered to Mr. Barber on 06/07/2004 for his signature. Mr. Barber diligently informed me that this claim had already been partially decreed.

Is this something the court can fix or do I need to have Lee Leininger file something?

Thanks
Scott Beazer
208-373-4022
scott_beazer@blm.gov

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUN 15 2004	
By <u><i>DL</i></u>	Clerk
	Deputy Clerk

DISTRICT COURT-SRBA
WIN FALLS CO., IDAHOIN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

2004 MAR 4 PM 2 28

In Re SRBA

Case No. 33576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 27-11759

NAME AND ADDRESS:

USDI BLM
IDAHO STATE OFFICE
1227 S VERNELL WAY
BOISE, ID 83709-1657

SMRR

SOURCE:

SPRING TRIBUTARY: SINKS

QUANTITY:

0.02 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE:

04/17/1926

4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT.
THIS WATER RIGHT IS CLAIMED BASED ON FEDERAL LAW WITH AN
APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN EXECUTIVE ORDER
SIGNED THE SAME DATE AND KNOWN AS PUBLIC WATER RESERVE 107.

POINT OF DIVERSION:

T068 R41E 031 Lot 2 (NMSWW) Within Caribou County

PURPOSE AND
PERIOD OF USE:PURPOSE OF USE
StockwaterPERIOD OF USE
01-01 TO 12-31QUANTITY
0.02 CFS

PLACE OF USE:

Stockwater
T068 R41E 031 Lot 2 (NMSWW)

Within Caribou County

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.
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.R.C. SECTION 42-1412(4).

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.

RECOMMENDATION

MAR - 4 2004


SPECIAL MASTERJohn M. Melanson
Presiding Judge of the
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 SNACK
Case No. 22576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 27-11759

2004 MAY -4 AM 10:53
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

PD

NAME AND ADDRESS: USDI BLM
IDAHO STATE OFFICE
1327 S VINNELL WAY
BOISE, ID 83789-1657

SOURCE: SPRING TRIBUTARY; SNACK

QUANTITY: 0.02 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 12,000
GALLONS PER DAY.

PRIORITY DATE: 04/17/1926

4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT.
THIS WATER RIGHT IS CLAIMED BASED ON FEDERAL LAW WITH AN
APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN EXECUTIVE ORDER
SIGNED THE SAME DATE AND KNOWN AS PUBLIC WATER RESERVE 167.

POINT OF DIVERSION: T06S R43E S31 Lot 2 (NNEWW) Within Caribou County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Stockwater
T06S R43E S31 Lot 2 (NNEWW) Within Caribou County

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

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
judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

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

9. Based upon the field verification and my review of the field investigation documents for each of the subcases listed on Attachment 1, there is sufficient surface water at these sites for consumptive use by livestock.

10. Based upon the field verification and my review of the field investigation documents, the source of water for each of the subcases listed on Attachment 1 is a spring located at the claimed Point of Diversion (hereinafter "POD") and Place of Use (hereinafter "POU"), except as noted below under paragraph 11(a).

11. I have reviewed the official business records of BLM for each of the subcases subject to this affidavit for a federal reserved water right pursuant to PWR 107 and E.O. 5389. The elements of the claimed water rights have been verified through examination of claim files and physical field investigations and are correctly described in the abstract/recommendation of the claims reported by IDWR, except where noted below. The quantity for a federal reservation based upon Public Water Reserve 107 was stipulated to be 0.02 cfs, not to exceed 13,000 gpd.

a. For the following subcases and based upon my review and independent verification, certain elements of the federal reserve basis are not described correctly in IDWR's original abstract/recommendation of the claim. Those elements should be altered as described below:

1. Subcase 27-11739: Upon closer inspection of the BLM Claim File, field investigation, its respective map, and the MTP, it was discovered that the POD would be more accurately described as Lot 2 (NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$), S31, T.06S., R.43E. instead of NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$. Similarly, the POU would be more accurately described as Lot 2 (SW $\frac{1}{4}$ NW $\frac{1}{4}$), S31, T.06S., R.43E. instead of SW $\frac{1}{4}$ NW $\frac{1}{4}$.