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Department of Water Resources

2002 APR 15 PM 2:12

DISTRICT COURT-SRBA

TWIN FALLS CO. IDAHO

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

) Subcases 36-02659 and 36-07004
) (Clear Lakes Trout Company, Inc.)
)

) AMENDED
) ORDER GRANTING IN PART
) CLEAR LAKES MOTION TO
) ALTER OR AMEND and 2nd AMENDED
) SPECIAL MASTER REPORT
_____)

Findings of Fact

A *Special Master Report with Recommendations* was filed in March 3, 1998, in subcases 36-02659, 36-07004, 36-07080 and 36-07731. The North Snake Ground Water District ("District") filed a *Motion to Alter or Amend* on April 28, 1998, on the issue of facility volume. Claimant Clear Lakes Trout Company, Inc. ("Clear Lakes"), filed its *Motion to Alter or Amend Special Master's Recommendation* on May 8, 1998, on the issues of General Provision 5 "Administration of Basin 36 Relative to the Snake River") and points of diversion (36-02659 and 36-07004).

On July 9, 1998, the Special Master entered an *Order Denying North Snake Ground Water District's Motions to Alter or Amend* and Clear Lakes' *Motion to Alter or Amend* was stayed on August 19, 1998, pending resolution of related claims before another Special Master. On August 21, 1998, the Presiding Judge entered an *Order Staying Proceedings on Challenge* staying the District's *Challenge* to the *Order Denying*.

On December 29, 1999, the Presiding Judge entered an *Order on Challenge (Consolidated Issues) of "Facility Volume" Issue and "Additional Evidence" Issue* in 20 subcases, including 36-02659 and 36-07004, holding, *inter alia*, that facility volume is not necessary. That done, the Presiding Judge entered *Orders of Partial Decrees* in 36-02659 and 36-07004 on April 10, 2000. However, on May 9, 2000, the Presiding Judge entered an *Order*

Vacating Partial Decrees and Recommitting Subcases to Special Master Dolan in both subcases because of the pending issues of conjunctive management and points of diversion.

On April 2, 2002, Clear Lakes lodged its *Memorandum in Support of Motion to Alter or Amend Special Master's Recommendations* in subcases 36-02659 and 36-07004. The *Memorandum* pointed out that there are no other parties to the subcases and the only remaining issue concerned points of diversion. Finally, on April 11, 2002, Clear Lakes and IDWR filed *Standard Forms 5* agreeing to all elements, including certain remarks concerning points of diversion in both claims.

An *Order Granting in Part Clear Lakes Motion to Alter or Amend and Amended Special Master Report* was entered on April 12, 2002. However, this *Amended Order* is being entered to correct errors in the point of diversion element of the *Recommendation* for 36-07004.

Order

THEREFORE, IT IS ORDERED that Clear Lakes' *Motion to Alter or Amend Special Master's Recommendation* is **granted, in part**, to add remarks under the point of diversion elements in both claims.

Conclusions of Law

1. The remarks under the point of diversion elements in both 36-02659 and 36-07004 are necessary for definition of the rights, for clarification of the point of diversion elements and for administration of the rights by the Director of IDWR (I.C. § 42-1411(2)(j)) and
2. Clear Lakes Trout Company, Inc., is entitled to amended partial decrees adjudicating water rights under claims 36-02659 and 36-07004 as described in the *Standard Forms 5* and the attached *2nd Amended Special Master Recommendations for Partial Decrees for Water Rights 36-02659 and 36-07004*.

DATED April 15, 2002.


TERRENCE A. DOLAN
Special Master
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)
Case No. 39576)
_____)

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

Water Right 36-02659

2002 APR 15 PM 2:12

DISTRICT COURT-SRBA
TWIN FALLS, IDAHO
FILED *[Signature]*

NAME AND ADDRESS: CLEAR LAKES TROUT
1301 VISTA AVENUE
BOISE, ID 83705

SOURCE: SPRINGS TRIBUTARY: CLEAR LAKES

QUANTITY: 100.00 CFS

PRIORITY DATE: 06/23/1966

POINT OF DIVERSION: T09S R14E S02 SESWNE Within Gooding County
LOT 05 (SESENE)
LOT 05 (SWSENE)

THIS WATER RIGHT IS DIVERTED THROUGH A COMBINATION OF TWO
ADJACENT SPRING-FED DIVERSION POOLS: (1) A DIVERSION POOL KNOWN
AS THE "WESTERN POOL" LOCATED IN THE S 1/2 SESWNE AND THE S 1/2
SWSENE, T09S, R14E, SECTION 2; AND (2) A DIVERSION POOL KNOWN AS
THE "EASTERN POOL" LOCATED IN A PORTION OF GOVERNMENT LOT 5 KNOWN
AS THE SWSSENE AND SESWSENE, T09S, R14E, SECTION 2. BOTH POOLS
DIVERT WATER FROM THE COMMON SOURCE IDENTIFIED IN THE SOURCE
ELEMENT OF THIS WATER RIGHT, LISTED ABOVE.

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Fish Propagation	01-01 TO 12-31	100.00 CFS

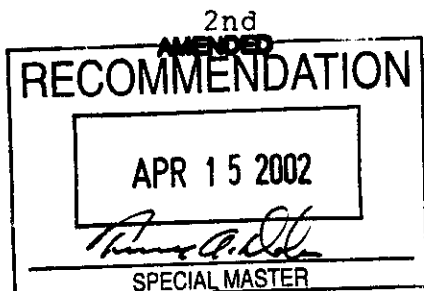
PLACE OF USE:	Fish Propagation	Within Gooding County
	T09S R14E S02 LOT 05 (SENE) LOT 08 (NESE)	LOT 06 (NESE)

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



Roger Burdick
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

AMENDED

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 36-07004

2002 APR 15 PM 4:09
DISTRICT COURT-SRBA
TWIN FALLS, IDAHO
FILED *[Signature]*

NAME AND ADDRESS: CLEAR LAKES TROUT
1301 VISTA AVENUE
BOISE, ID 83705

SOURCE: SPRINGS TRIBUTARY: CLEAR LAKES

QUANTITY: 75.00 CFS

PRIORITY DATE: 07/21/1967

POINT OF DIVERSION: T09S R14E S02 LOT 05 (SWSENE) Within Gooding County
LOT 05 (SESENE)

THIS WATER RIGHT IS DIVERTED THROUGH A SPRING-FED DIVERSION POOL
KNOWN AS THE "EASTERN POOL," AND THROUGH PIPES WHICH DIVERT WATER
FROM SPRINGS THAT ARE TRIBUTARY TO THE EASTERN POOL, ALL OF WHICH
ARE LOCATED IN A PORTION OF GOVERNMENT LOT 5 KNOWN AS THE
SWSENE AND SESWSENE, T09S, R14E, SECTION 2. A PORTION OF WATER
RIGHT NO. 36-2659 IS ALSO DIVERTED THROUGH THE EASTERN POOL. ALL
WATER DIVERTED IS FROM THE SOURCE IDENTIFIED IN THE SOURCE
ELEMENT OF THIS WATER RIGHT, LISTED ABOVE.

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Fish Propagation	01-01 TO 12-31	75.00 CFS

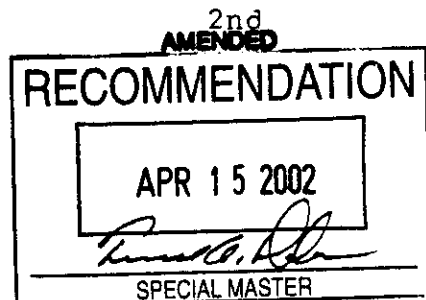
PLACE OF USE: Fish Propagation Within Gooding County
T09S R14E S02 LOT 05 (SENE) LOT 06 (NESE)
LOT 08 (NESE)

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
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DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
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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.



Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the AMENDED ORDER GRANTING IN PART CLEAR LKAES MOTION TO ALTER OR AMEND AND 2ND AMENDED SPECIAL MASTER REPORT was mailed on April 15, 2002, with sufficient first-class postage to the following:

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

CLEAR LAKES TROUT

Represented by:

WILLIAM F. RINGERT

PO BOX 105

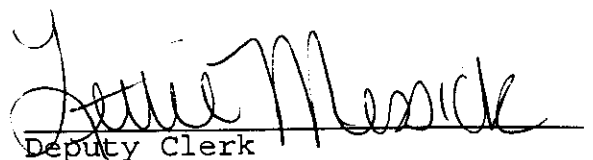
HAMMETT, ID 83627

Phone: 208-342-4591

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

A handwritten signature in black ink, appearing to read "Julie Messick", is written over a horizontal line. The signature is cursive and stylized.