

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED
2005 MAY 25 AM 10 23

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	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHTS 65-4213 and 65-
	)	4213A

I. FINDINGS OF FACT

Notices of claim were filed for the above listed water rights pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of water right 65-4213A. Water right 65-4213A was split from 65-4213¹.

On July 16, 2003, a *Notice of Complete Administrative Proceeding* was filed in 65-4213A, together with an *Amended Director's Report*, substituting Faustino Ramos as a party. On October 18, 2000, an objection was filed to 65-4213A by the United States Bureau of Reclamation, regarding the general provisions to the water right. On January 12, 2004, Mr. Ramos and the United States filed a *Standard Form 5* resolving this objection.

On October 8, 2004, pursuant to an order granting motion to file late objections, Daryl Hart and Marchelle Hart, and Verla Witt filed objections to the *Amended Director's Report* for 65-4213A. Thereafter, on January 20, 2005, and pursuant to a settlement reached by the parties, the Harts and Ms. Witt filed a *Notice of Withdrawal of Late Objections*.

¹ Water right 65-4213 was decreed in the Payette River Basin Adjudication for 0.4 cfs and a priority date of May 1, 1959 for irrigation use. The following claims have been submitted in the Snake River Basin Adjudication for portions of this right: 65-4213A for .14 cfs (Ramos); 65-4213B, renumbered as 65-22877 for .08 cfs (Hart); and 65-4213C, renumbered as 65-22878 for .06 cfs (Witt). As part of the agreement of the parties, the claims to 65-22877 and 65-22878 have been withdrawn, and have been decreed as disallowed.

On February 1, 2005, the Court received correspondence from IDWR regarding the settlement reached by the parties. Attached to the correspondence was an *Amended Notice of Claim* for water right 65-4213. On March 14, 2005, a telephonic hearing was held on the stipulation to resolve objections reached by the parties, and the *Amended Notice of Claim*. The following persons participated in the hearing: Brian McMahon, attorney for Faustino Ramos, Verla Witt, *pro se*, Marchelle Hart, *pro se*, and David Barber, representing the State of Idaho. Also participating were Chris Bromley and David Tuthill from IDWR. At the hearing, the parties stated the terms of their agreement on the record. The essential terms of that agreement are that the root right 65-4213 would be claimed jointly in the names of Verla Witt, Daryl Hart, Marchelle Hart, and Faustino Ramos. All claims to splits from this root right, including 65-4213A are to be disallowed. The *Amended Notice of Claim* filed by the parties reflects this agreement. No objections to the settlement have been filed, and the time for so doing has expired.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the agreement of the parties hereto, IT IS RECOMMENDED that water right 65-4213 be **decreed** with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*. It is further recommended that an order be entered disallowing water right 65-4213A.

Dated May 24, 2005.


THEODORE R BOOTH
Special Master
Snake River Basin Adjudication

THE DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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

Water Right 65-04213

2005 MAY 25 AM 10 23

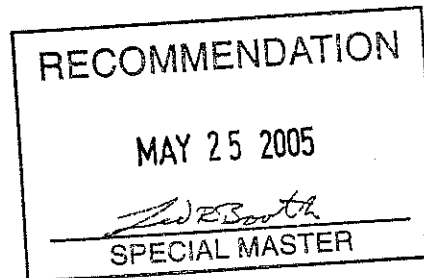
VERLA WITT
13968 TURNER LN
MC CALL, ID 83638

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 M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



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Water Right(s): 65-04213
65-4213A (Disallowed)

CERTIFICATE OF MAILING

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DEBBIE LASH
Deputy Clerk

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Water Right(s): 65-04213
65-4213A (Disallowed)


DEBBIE LASH
Deputy Clerk