

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

JUN 12 2009

By _____ Clerk
_____ Deputy Clerk

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 TO SHOW CAUSE AND SUMMONS TO APPEAR

SUBCASE NO.: 21-12841

A Scheduling Conference was held on June 10, 2009. Notice of the Scheduling Conference was sent to the claimant, Red Feather Irrevocable Trust. However, the claimant failed to appear at the hearing.

At the hearing, IDWR informed the court that it had not had any contact with the claimant since the last hearing. At the last hearing, the court vacated the trail set for this subcase because Red Feather Irrevocable Trust represented that the late claim for 21-13070 would resolve this subcase as well. The trustee for Red Feather Irrevocable Trust was present when the June 10, 2009 hearing was set. Therefore, this court issued an Order to Show Cause requiring Red Feather Irrevocable Trust to show why its *Objection* in 21-12841 should not be **dismissed for failure to prosecute**. If Red Feather Irrevocable Trust does not appear and show why the *Objection* should not be dismissed, the result would be that a *Special Master's Report and Recommendation* will issue consistent with the *Director's Report*. See, attachment A.

Therefore, IT IS HEREBY ORDERED, pursuant to I.R.C.P. 6(c)(2) and I.R.C.P. 6(c)(4), that the claimants shall appear at a Show Cause Hearing to determine whether the *Objection* should be **dismissed for failure to prosecute**. The Court also notes that Red Feather Irrevocable Trust has not yet notified the Court as to how it will proceed in this matter. An earlier *Order Vacating Trial, and Hearing Regarding Representation of Counsel* (August 8, 2008) noted that trusts are generally required to proceed with legal counsel. Red Feather Irrevocable Trust shall appear at the hearing with

counsel.

DATE: July 8, 2009 Wednesday
TIME: 3:00 pm
LOCATION: Snake River Basin Adjudication
253 3rd Ave. North
Twin Falls, Idaho 83301

Parties may participate by telephone for this Show Cause Hearing by dialing 1-225-383-1099 and when prompted enter participant code 926509. If you have any questions regarding participating by telephone, please contact the Clerk's office at (208) 736-3011.

IT IS FURTHER ORDERED THAT, affidavits from the parties pursuant to I.R.C.P. 6(c)(2) shall be due on or before July 1, 2009.

Red Feather Irrevocable Trust is hereby informed that pursuant to Rule 6(c)(4) of the Idaho Rules of Civil Procedure, any party has the right to elect to produce testimony and evidence at the hearing upon the Order to Show Cause, or to cross-examine the adverse party or the adverse party's affiants, by first giving at least twenty four (24) hours notice to the Court and opposing counsel before the show cause hearing.

A copy of this *Order to Show Cause and Summons to Appear* shall be served upon Red Feather Irrevocable Trust not less than five (5) days prior to the date set for hearing, upon which the claimant is required to appear before this Court and show cause. Service of this *Order* shall be made in accordance with I.R.C.P. 5(b) and 6(c)(2).

APPEARANCE AT THIS HEARING IS MANDATORY. FAILURE TO APPEAR AT THIS HEARING MAY RESULT IN THE DISMISSAL OF THE OBJECTION AND A SPECIAL MASTER'S REPORT AND RECOMMENDATION FOR THIS RIGHT CONSISTENT WITH THE DIRECTOR'S REPORT.

Dated: June 12, 2009.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

ATTACHMENT A

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	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 21-12841

NAME AND ADDRESS: RED FEATHER IRREVOCABLE TRUST
2346 E IONA RD
IDAHO FALLS, ID 83401

SOURCE: FALLS RIVER TRIBUTARY: HENRYS FORK

QUANTITY: 0.30 CFS

PRIORITY DATE: 06/10/1887

POINT OF DIVERSION: T08N R42E S20 SWNSW Within Fremont County

PURPOSE AND			
PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.30 CFS

PLACE OF USE: Irrigation Within Fremont County
T08N R41E S13 SWSE 14.3
14.3 Acres Total

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.

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 TO SHOW CAUSE AND SUMMONS TO APPEAR was mailed on June 12, 2009, with sufficient first-class postage to the following:

RED FEATHER IRREVOCABLE TRUST
C/O RITA SIMONSON, TRUSTEE
2346 E IONA RD
IDAHO FALLS, ID 83404
Phone: 208-524-8074

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

RED FEATHER IRREVOCABLE TRUST
2346 E IONA RD
IDAHO FALLS, ID 83401