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DEPARTMENT OF
WATER RESOURCES

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

APR 30 2010

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

)
) Subcase No.: 21-02100
) (State of Idaho)
)
) ORDER SETTING ASIDE AND
) AMENDING PARTIAL DECREE
)

On February 2, 2007, a *Partial Decree* was issued for the above-captioned right. On August 29, 2007, a *Motion to Set Aside Partial Decree* was filed by North Henry's Lake Homeowners Association. The matter was referred to the Special Master for further proceedings. On March 16, 2010, the Special Master issued a *Special Master's Report and Recommendation* recommending that the *Partial Decree* be set aside and an *Amended Partial Decree* be issued. No challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report and Recommendation* and wholly adopts them as its own.

Therefore, IT IS ORDERED that the *Partial Decree* for the above-captioned water right is hereby set aside and amended as set forth in the attached *Amended Partial Decree Pursuant to I.R.C.P. 54(b)*. The previously issued *Partial Decree* is replaced and superseded thereby.

DATED:

April 30, 2010

ERIC S. WILDMAN

Presiding Judge

Snake River Basin Adjudication

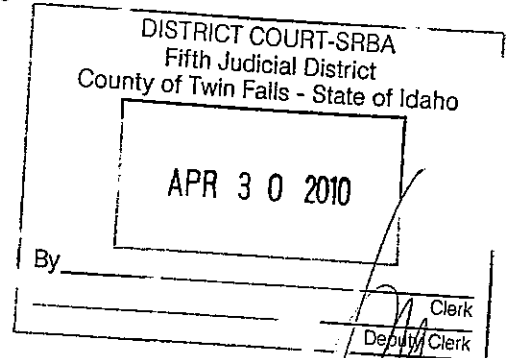
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

AMENDED

In Re SRBA)
)
Case No. 39576)
_____)

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

Water Right 21-02100



NAME AND ADDRESS: STATE OF IDAHO
DEPT OF FISH & GAME
PO BOX 25
BOISE, ID 83707

SOURCE: SHERWOOD SPRING TRIBUTARY: HENRYS LAKE
HENRYS LAKE TRIBUTARY: HENRYS FORK

QUANTITY: 6.00 CFS

Diversion of water from the additional point of diversion
authorized under Transfer 74584 located in L2, (SESW), Sec. 33,
T16N, R43E shall not exceed a maximum diversion rate of 4.00 cfs.

PRIORITY DATE: 02/03/1948

POINT OF DIVERSION: T16N R43E S33 LOT 2 (SESW) Within Fremont County
NWSE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Fish Propagation	01-01 TO 12-31	6.00 CFS

PLACE OF USE:	Fish Propagation	Within Fremont County
	T16N R43E S33	NESW LOT 2 (SESW)
		NWSE LOT 1 (SWSE)

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

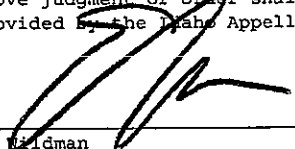
Diversion of water from Henrys Lake is limited to those times
water is available for diversion under this right and priority
from Unnamed Stream at the original point of diversion in the
NESE, S33, T16N, R43E, and to the amount of water that actually
reaches State Highway 287 in the SESE, S33, T16N, R43E or at
another suitable location and then flows into Henrys Lake.
Unnamed stream is known locally as Pittsburg Creek.
The use of water under this right shall in no way affect the
water rights or use of water of senior water users, including
water right no. 21-10015.

Prior to diversion of water under Transfer 74584, the right
holder shall provide a means of measurement acceptable to the
department for measuring the flow from Unnamed Stream at: the
original point of diversion in the NESE, S33, T16N, R43E; where
Unnamed Stream flows under State Highway 287 in the SESE, S33,
T16N, R43E or at another suitable location; and at the point of
diversion from Henrys Lake in Lot 2 (SESW), S33, T16N R43E.

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.



Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER SETTING ASIDE AND AMENDING PARTIAL DECREE was mailed on April 30, 2010, with sufficient first-class postage to the following:

NORTH HENRY'S LAKE

Represented by:

MARCHANT, LUKE H
HOLDEN KIDWELL HAHN & CRAPO
1000 RIVERWALK DR STE 200
PO BOX 50130
IDAHO FALLS, ID 83405
Phone: 208-523-0620

NORTH HENRY'S LAKE

Represented by:

ROBERT L HARRIS
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STATE OF IDAHO

DEPT OF FISH & GAME

PO BOX 25

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