



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 21, 2017

JAMES E BONATO
PO BOX 350
LUCILE ID 83542

RE: Priority Date for Water Right 79-13962

Dear Mr. Bonato:

Our office has received a number of telephone inquiries from you in the past few years regarding the priority date for water right 79-13962. After your most recent inquiry, I thought it would be useful to respond to your concern in writing so you have a clear response from the Idaho Department of Water Resources (Department) for future reference. In short, your concern is that water right 79-13962 was decreed by the Snake River Basin Adjudication (SRBA) Court with a priority date of June 1, 1907, rather than the December 31, 1902 priority date suggested on your original adjudication claim. You ask that the Department "correct" the water right so the priority date is December 31, 1902.

The Department administers water rights, maintains records of water rights, issues permit for new water rights, and processes transfers to change existing water rights. However, your water right was not issued by the Department. It was determined and decreed by the SRBA Court. While the Department was involved in preparing a recommendation to the SRBA Court, the final decision and decree for your water right was issued by the Court. The Department has no authority to reconsider a court decree. Further, the administrative processes for changing an existing right do not extend to granting an earlier priority date.

If you believe the priority date is in error, your recourse is to contact the SRBA Court and petition to set aside the partial decree. If the Court were to approve your petition, it may allow you to present evidence supporting the earlier priority date, or it may consider the existing evidence supporting the earlier priority date. However, the SRBA Court has been increasingly unwilling to set aside partial decrees as more time passes after it ceased claims taking several years ago.

I should note also, that I expect the SRBA Court will not be willing to set aside your partial decree without a very good reason to do so, particularly since you were provided notice of the 1907 priority date and given an opportunity to object both before the decree was issued (see the attached Amended Director's Report) and after. Nevertheless, if you choose to contact the SRBA to pursue this matter, its mailing address is 253 3rd Ave N, Twin Falls, ID 83301.

Sincerely,

Nick Miller
Manager, IDWR Western Region

Enclosures: September 23, 2008 Amended Director's Report; March 12, 2009 Order of Partial Decree.

RECEIVED

MAR 13 2009

DEPARTMENT OF
WATER RESOURCES

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

MAR 12 2009

By _____

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 OF PARTIAL DECREE

Subcase No. 79-13962
(Bonato)

On January 12, 2009, a *Special Master's Report and Recommendation* was filed for the above-captioned water right. 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 above-captioned water right be decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED: _____

March 12, 2009

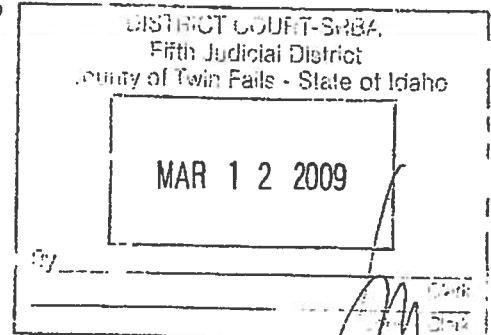
[Signature]
JOHN M. MELANSON

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

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 79-13962



NAME AND ADDRESS: JAMES E BONATO
PO BOX 350
LUCILE, ID 83542

SOURCE: CABIN CREEK TRIBUTARY: COW CREEK

QUANTITY: 0.50 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC AND
STOCKWATER USES SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 06/01/1907

POINT OF DIVERSION: T25N R01E S08 NWNE Within Idaho County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Domestic	01-01 TO 12-31	0.02 CFS
Stockwater	01-01 TO 12-31	0.02 CFS
Fire Protection	03-15 TO 11-15	0.50 CFS
Irrigation	03-15 TO 11-15	0.06 CFS

PLACE OF USE: Irrigation T25N R01E S05 SESE 2.0 Within Idaho County
2.0 Acres Total

Stockwater Within Idaho County
Same as Irrigation

Domestic Within Idaho County
Same as Irrigation

Fire Protection Within Idaho County
Same as Irrigation

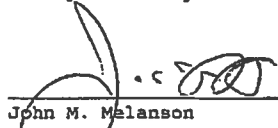
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR DOMESTIC
USE AND STOCKWATER USE 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 M. Malanson
Presiding Judge of the
Snake River Basin Adjudication

2009 MAR 12 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 79-13962

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 79-13962 was mailed
on March 12, 2009, with sufficient first-class postage prepaid
to the following:

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

UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

JAMES E BONATO
PO BOX 350
LUCILE, ID 83542
Phone: 208-628-3087

JULIE MURPHY
Chief Deputy Clerk

COPY

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____
2008 SEP 25 AM 10 42

RECEIVED

SEP 26 2008
DEPARTMENT OF
WATER RESOURCES

AMENDED DIRECTOR'S REPORT

Subcase No. 79-13962

In Re SRBA
Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
David R. Tuthill, Jr., Director
Donald V. Shaff, Adjudication Bureau Chief

September 23, 2008

DESCRIPTIVE SUMMARY

This is an Amended Director's Report submitted by the Director of the Idaho Department of Water Resources.

DISCUSSION

Pursuant to Special Master Booth's *Amended Order Granting Motion to File Amended Notice of Claim and Requesting Amended Directors Report* on or about September 22, 2008, the Director hereby files with the Court this Amended Director's Report for subcase number 79-13962(see attached print-out).

Respectfully submitted this 23rd day of Sept, 2008.



Donald V. Shaff
Adjudication Bureau Chief

09/23/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 79-13962

NAME AND ADDRESS: JAMES E BONATO
PO BOX 350
LUCILE ID 83542

SOURCE: CABIN CREEK

TRIBUTARY: COW CREEK

QUANTITY: 0.500 CFS

The quantity of water under this right for domestic and stockwater uses shall not exceed 13,000 gallons per day.

PRIORITY DATE: 06/01/1907

POINT OF
DIVERSION:

T25N R01E S8 NWNE Within IDAHO County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	0.020 CFS
STOCKWATER	01/01 12/31	0.020 CFS
FIRE PROTECTION	03/15 11/15	0.500 CFS
IRRIGATION	03/15 11/15	0.060 CFS

PLACE OF USE: IRRIGATION in IDAHO County

T25N R01E S05 SESE 2.00

DOMESTIC same as IRRIGATION
STOCKWATER same as IRRIGATION
FIRE PROTECTION same as IRRIGATION

2 ACRES TOTAL

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

The quantity of water decreed for this water right for domestic use and stockwater use 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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

CERTIFICATE OF SERVICE

I certify that on 9/24, 2008, I served the original and/or copies of this form, including all attachments, to the following persons by delivering the original and/or copies, as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

☒ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

2. Copies to:

Director of IDWR
PO Box 83720
Boise, ID 83720-0098

United States Dept. of Justice
Environment & Natural Resource
550 West Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Div.
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

Idaho County Courthouse
320 W. Main
Grangeville, ID 83530

James E. Bonato
P.O. Box 350
Lucille, ID 83542



Signature of person delivering form