



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN

Director

C.L. "BUTCH" OTTER

Governor

December 9, 2013

F JAMES AND PAULA J WHITTAKER
83 BIG EIGHT MILE RD
PO BOX 240
LEADORE ID 83464

RE: Water Rights 74-2088, 74-2095, 74-2148 & 74-15663

Dear James & Paula Whittaker:

Thank you for your call in response to my 11-29-2013 letter regarding the rights listed above. After hearing your concerns, I reviewed the Snake River Basin Adjudication (SRBA) actions preceding the partial decrees issued by the SRBA Court. I have enclosed copies of the following items for each of the four rights listed above that have apparent point of diversion discrepancies noted in my earlier letter:

- 03-17-2009 Standard Form 5 (SF5), Stipulated Elements of a Water Right
- 08-17-2009 Special Master Report
- 10-26-2009 Order of Partial Decrees
- Water Right Proof Reports & maps for comparison.

All of these actions in the SRBA Court have matching point of diversion descriptions for each right. I highlighted the questionable point of diversion descriptions on each document using a different color for each right number to avoid confusion. The SF5 agreement was initialed and signed by both of you as the right holders. The Proof Reports from our water right database accurately reflect these court documents.

As I noted in my first letter, you can approach the SRBA Court about changes or apply to change your authorized points of diversion by Application For Transfer. Applications for Transfer will be processed our Eastern Region office in Idaho Falls.

If you require additional information you can call me at (208) 287-4951, e-mail me at pam.skaggs@idwr.idaho.gov or contact me by mail.

Sincerely,

Pamela S. Skaggs
Water Rights Supervisor

Enclosures

c: James Cefalo, Eastern Region IDWR
Nick Miller, State Office

RECEIVED

OCT 27 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

2009 OCT 26 PM 2 13

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 DECREES

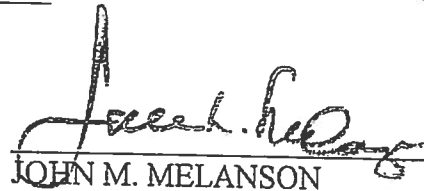
Subcases: See Attached Exhibit A
(Whittaker)

On August 17, 2009, a *Special Master's Report and Recommendation* was filed for the above-captioned water rights. 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 wholly adopts them as its own.

Therefore, IT IS ORDERED that the above-captioned water rights are hereby decreed as set forth in the attached *Partial Decrees Pursuant to I.R.C.P. 54(b)*.

DATED October 26, 2009.



JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
AUG 17 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

) Subcases 74-2088, 74-2095, 74-2148,
) 74-15660 and 74-15663
) (Whittaker)
)
) **SPECIAL MASTER REPORT**

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Director's Report, Reporting Area 23, IDWR Basin 74* on January 23, 2006. The Director recommended claims 74-2088, 74-2095 and 74-2148 to F. James and Paula Whittaker, P.O. Box 240, Leadore, Idaho, 83464, for 2 cfs, 2.5 cfs, and .6 cfs from Big Timber Creek and Basin Creek to irrigate 76 acres, 103 acres and 19 acres in Lemhi County from March 15 to November 15 with priority dates of April 25, 1910, July 22, 1910, and July 6, 1912, based on a decree. The Director recommended claims 74-15660 and 74-15663 be disallowed: "No lawful appropriation shown."

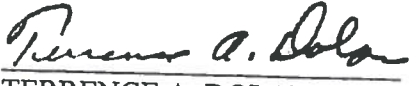
Mr. Whittaker filed *Objections* in subcases 74-15560 and 74-15663 on May 4, 2006, objecting to the claims not being recommended as claimed. On June 20, 2008, IDWR fled a *Notice of Completed Administrative Proceeding* in subcases 74-15660 and 74-15663 for "enlargement advertisement - no protest filed."

On March 17, 2009, the Whittakers and the United States of America, Department of Agriculture, Forest Service, with IDWR's concurrence, filed *Standard Forms 5* in subcases 74-15660 and 74-15663. The same date, the Whittakers, with IDWR's concurrence, filed *SF-5s* in subcases 74-2088, 74-2095 and 74-2148 as uncontested overlaps.

Conclusions of Law

The Whittakers are entitled to partial decrees adjudicating water rights as described in the *SF-5s* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 74-2088, 74-2095, 74-2148, 74-15660 and 74-15663*.

DATED August 17, 2009.


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

COPY

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MAR 19 2009

DEPARTMENT OF
WATER RESOURCES

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

MAR 17 2009

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.: 74-2088

(Uncontested Overlap)

STANDARD FORM 5

STIPULATED ELEMENTS OF A
WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT:

F. James Whittaker

Paula J. Whittaker

F. James Whittaker

Date

Paula J. Whittaker

Date

IDWR CONCURRENCE:

Nathaniel Arave

Water Resource Agent

Date

IDWR CONCURRENCE:

Christopher M. Bromley

Deputy Attorney General

Attorney for IDWR

3/10/09

Date