Fifth Judicial District
County of Twin Falls - State of Idaho
OCT 29 2010
By
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	)	
	)	**Water Right Nos.: See Attached Exhibit A**
Case No. 39576	)	**(Matthews)**
	)	
	)	**ORDER OF PARTIAL DECREES**
	)	
	)	

On September 7, 2004, the Idaho Department of Water Resources filed its *Director's Report for Basin 45, Part I, Reporting Area 10, for Irrigation and Other Water Rights*, which included recommendations for the above named water rights. No objections were filed.

On September 16, 2010, the Idaho Department of Water Resources filed a *Notice of Completed Administrative Proceeding* and *Amended Director's Reports* notifying the Court of a transfer in each of the above named water rights. No objections were filed to the *Amended Director's Reports* and the time period for filing objections has expired.

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

DATED October 29, 2010

ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

EXHIBIT A - MATTHEWS

Subcase Nos:

45-00577A
45-00577B
45-00578A
45-00578B
45-00579A
45-00579B
45-00580A
45-00580B
45-00586
45-00587
45-00588
45-00600
45-12927
45-12929

(Subcase list: 45-577A ET)
9/22/10

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 45-00580B

DISTRICT COURT - CLERK
Fifth Judicial District
County of Twin Falls - State of Idaho
OCT 29 2010
By

NAME AND ADDRESS: E EUGENE MATTHEWS
HEIDI F MATTHEWS
1249 S HWY 27
OAKLEY, ID 83346

SOURCE: MILL CREEK
SPRING CREEK TRIBUTARY: MILL CREEK

If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.

QUANTITY: 0.38 CFS

Rights 45-577A, 45-577B, 45-578A, 45-578B, 45-579A, 45-579B, 45-580A, 45-580B, and 45-600 when combined shall not exceed a total diversion rate of 3.1 cfs.
Rights 45-577A, 45-577B, 45-578A, 45-578B, 45-579A, 45-579B, 45-580A, 45-580B, 45-600 and 45-12927 when combined shall not exceed a total diversion rate of 3.1 cfs.
Rights 45-577B, 45-578B, 45-579B and 45-580B when combined shall not exceed a diversion rate of 2.72 cfs.
This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands herein.
Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.
Rights 45-14216, 45-577A, 45-577B, 45-578A, 45-578B, 45-579A, 45-579B, 45-580A, 45-580B, 45-586, 45-587, 45-588, 45-600, 45-12927 and 45-12929 when combined shall not exceed a total diversion rate of 6.93 cfs.

PRIORITY DATE: 05/01/1885

POINT OF DIVERSION: T14S R23E S03 NESWSE Within Cassia County
S04 LOT 1 (NWNENE)
S10 SWSENE

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	03-15 TO 11-15	0.38 CFS

PLACE OF USE: Irrigation Within Cassia County
T14S R23E S10 SENE 32.0 SESW 35.0

PLACE OF USE (continued)

		NESE 32.0	NWSE 35.0
		SWSE 32.0	
	S21	SWNW 40.0	NWSW 40.0
		SWSW 40.0	
	S28	NWNE 34.0	SWNE 33.0
		NENW 33.0	NWNW 11.0
		SWNW 5.5	SENW 34.0
		NESW 38.0	NWSW 29.0
		SWSW 35.0	SESW 35.0
		NWSE 36.0	
	S29	NENE 4.4	NWNE 35.0
		SWNE 39.0	SENE 38.0
		NENW 34.0	SENW 35.0
		NESW 35.0	NESE 40.0
		NWSE 36.0	

905.9 Acres Total

Rights 45-577A, 45-577B, 45-578A, 45-578B, 45-579A, 45-579B, 45-580A, 45-580B and 45-600 when combined shall not exceed the irrigation of 160 acres.
Rights 45-577A, 45-577B, 45-578A, 45-578B, 45-579A, 45-579B, 45-580A, 45-580B, 45-600 and 45-12927 when combined shall not exceed the irrigation of 238 acres.
Rights 45-577A, 45-577B, 45-578A, 45-578B, 45-579A, 45-579B, 45-580A, 45-580B, 45-600, 45-2405, 45-12927 and 45-12928 when combined shall not exceed the irrigation of 238.0 acres.
Rights 45-577B, 45-578B, 45-579B, and 45-580B when combined shall not exceed the irrigation of 150 acres.
Rights 45-14216, 45-586, 45-587, 45-588, 45-12929, 45-577A, 45-577B, 45-578A, 45-578B, 45-579A, 45-579B, 45-580A, 45-580B, 45-600, 45-12927, 45-2405, 45-2406, 45-2661, 45-12928 and 45-12930 when combined shall not exceed the irrigation of 527.2 acres within the place of use in a single irrigation season. The specific 527.2 acres to be irrigated by the right holder shall be identified prior to each irrigation season by submitting to IDWR a land list and a representative electronic shape file or a land list and a map sufficiently detailed to allow creation of an electronic shape file to be associated with these rights.
Rights 45-14216, 45-577A, 45-577B, 45-578A, 45-578B, 45-579A, 45-579B, 45-580A, 45-580B, 45-586, 45-587, 45-588, 45-600, 45-12927 and 45-12929 when combined shall not exceed the irrigation of 527.2 acres.

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

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 45A.
Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.
During times of low flow when the quantity of water is not sufficient to fill all the December 31, 1879 priority rights from the surface and ground waters of Mill Creek, Warm Springs, Spring Creek, Summit Creek, and their tributaries, the practice of delivery by rotation among individual appropriators within groups of water users may occur by agreement of the parties, or according to common practice and usage, provided that no water

OTHER PROVISIONS (continued)

right user shall be denied the right to receive water on a continuous flow basis by reason of this decree.
The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
The use of this right is subject to the Amended Order Amending Transfer Approval dated July 20, 2010 with additional conditions as follows:
1. The use of water is subject to the attached IRRIGATION PLAN.
1.1 Prior to August 31, 2010 the applicant shall report directly to the Department and the watermaster of Water District 140 the location of the 527.2 acres initially irrigated from March 15, 2010 to August 31, 2010. The applicant shall also report that portion of the 527.2 acres intended to be dried up (defined as A acres under the plan) in exchange for irrigation of other lands between September 1 and November 15 of 2010 (defined as B acres under the plan) necessary to prepare soil for tilling, for application of chemicals, or for establishing fall planting.
1.2 Beginning in 2011 and for each successive year, the applicant shall report directly to the Department and the watermaster of Water District 140 prior to May 1, the location of the 527.2 acres of crops that will be irrigated between March 15 and August 31. The applicant shall also report prior to August 31, the location and number of the A acres (that portion of the 527.2 acres to be dried up on or before August 31), and the number and location of the B acres (the acres to be irrigated in the fall between September 1 and November 15).
1.3 Identification or reporting to the Department and the Water District 140 watermaster of the 527.2 cropped acres, the A acres, and the B acres shall be in the form of a land list and a map sufficiently detailed to allow creation of an electronic shape file.
1.4 The total number of B acres shall not exceed the number of A acres in any irrigation season.
1.5 Application of water to B acres in the fall is limited to water necessary to prepare soil for tilling, for application of chemicals, or for establishing fall planting. Application of water to B acres shall not provide water to irrigate crops for harvest in the same fall. Application of water to B acres in the fall shall not exceed two applications or sets of water.
1.6 The B acres identified for fall irrigation in any year shall be included in the 527.2 cropped acres for the subsequent season.
1.7 The watermaster of Water District 140 shall monitor the place of use and regulate the use of water under the approved transfers pursuant to these conditions of approval. The watermaster of Water District 140 shall coordinate delivery and regulation with the watermaster of Water District 45-A of the surface water rights covered by transfer No. 66133.
1.8 Original conditions of approval associated with transfer No. 66132 and transfer No. 66133 that are in the standard form of: "This right is limited to the irrigation of ### acres within the place of use described above in a single irrigation season", shall be amended to the form of: "This right is limited to the irrigation of ### acres within the place of use described above in accordance with the attached Irrigation Plan."
2. Failure to adhere to the conditions of use and timelines set forth on the IRRIGATION PLAN shall be cause for this amended approval to be revoked with prejudice and the transfers to revert back to the approval established in the orders dated December 2, 2009.
Priority of appropriation shall give the better right as among those using the surface and ground waters of Mill Creek, Warm Springs, Spring Creek, Summit Creek, and their tributaries, and

OTHER PROVISIONS (continued)

rights having the same priority date shall share equally in the available water supply in a manner that will equally apportion all natural channel losses among rights having the same date of priority. For example, if there are seven points of diversion from the natural channel, which have the same 1879 date of priority, and the flow in the stream is equal to one-half of the amount of flow necessary to fully satisfy all of the 1879 priorities at their respective points of diversion, then the diversion rates at each of the seven points of diversion shall be reduced by one-half. A pro rata sharing of the water in the stream shall continue to be enforced among rights of equal 1879 priority until the watermaster shall have determined that water in the stream is inadequate to reach a downstream 1879 point of diversion in a sufficient quantity to be applied to beneficial use. Thereafter, upstream 1879 appropriators who are still able to receive water in a sufficient quantity to be applied to beneficial use shall continue a pro rata sharing of the water in the stream.

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 OF PARTIAL DECREES was mailed on October 29, 2010, with sufficient first-class postage to the following:

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

E EUGENE MATTHEWS
HEIDI F MATTHEWS
1249 S HWY 27
OAKLEY, ID 83346

Deputy Clerk