

RECEIVED

JUN 16 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO
FILED
2009 JUN 12 AM 9 40

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

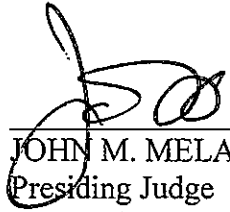
Subcases: 74-00056, 74-00338B,
74-01103 and 74-15658
(Whittaker)

On April 7, 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 June 12, 2009


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

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

DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO
FILED
2009 JUN 12 AM 9 41

In Re SRBA)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 74-00056

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

SOURCE: BIG TIMBER CREEK TRIBUTARY: LEMHI RIVER
UNNAMED STREAM TRIBUTARY: BIG TIMBER CREEK

QUANTITY: 2.00 CFS

Right Nos. 74-56 and 74-15658 are limited to a total combined
diversion rate of 2.00 cfs.

PRIORITY DATE: 05/01/1910

POINT OF DIVERSION: T14N R26E S06 SWNE Within Lemhi County
NESW
S07 NESW
NWSE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	2.00 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
T14N R26E S05	SWNW 2.0	NWSW 5.0
	SWSW 1.4	
S06	SWNE 1.0	SENE 3.1
	NWSW 3.1	NESE 40.0
	NWSE 9.0	SWSE 7.0
	SESE 18.0	
	89.6 Acres Total	

Place of use does not include federal public lands.
Right Nos. 74-56 and 74-15658 are limited to the irrigation of a
combined total of 89.6 in a single irrigation season.
This right is limited to the irrigation of 74 acres within the
place of use described above in a single irrigation season.

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

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

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED
2009 JUN 12 AM 9 41

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 74-00338B

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

SOURCE: BIG EIGHTMILE CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 3.20 CFS

PRIORITY DATE: 11/01/1887

POINT OF DIVERSION: T15N R25E S05 LOT 10 (NWSE) Within Lemhi County
T16N R25E S33 NWSW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	3.20 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
T16N R25E S28	SWNW 40.0 NESW 32.0 SWSW 38.0	SENW 35.0 NWSW 40.0 SESW 14.0
S29	SWNE 40.0 SWNW 34.0 NESW 40.0 SWSW 15.0 NESE 40.0 SWSE 39.0	SENE 40.0 SENW 40.0 NWSW 18.0 SESW 40.0 NWSE 40.0 SESE 18.0
S32	NENE 16.0 NWNW 36.0	NENW 38.0
S33	NWNW 31.0	
724.0 Acres Total		

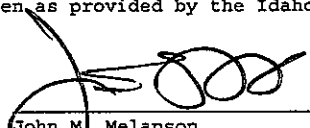
This right is limited to the irrigation of 128.9 acres within
the place of use described above in a single irrigation season.

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

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

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED
2009 JUN 12 AM 9 41

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 74-01103

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

SOURCE: BIG TIMBER CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 0.48 CFS

RIGHT NOS. 74-1103 AND 74-15660 ARE LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 0.48 CFS.

PRIORITY DATE: 11/19/1922

POINT OF DIVERSION: T14N R26E S05 SWNW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.48 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
	T14N R26E S05	NWNW 19.0
	S06	NENE 8.7
	T15N R26E S31	SESE 7.6
	S32	SWSW 2.6
	54.1 Acres Total	

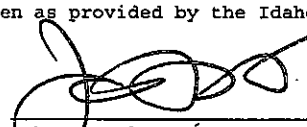
A PORTION OF THIS PROPERTY IS ALSO KNOWN AS HES 657.
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 24 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
PLACE OF USE DOES NOT INCLUDE FEDERAL PUBLIC LANDS.

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

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

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED
2009 JUN 12 AM 9 41

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54 (b) FOR
Water Right 74-15658

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

SOURCE: BIG TIMBER CREEK TRIBUTARY: LEMHI RIVER
UNNAMED STREAM TRIBUTARY: BIG TIMBER CREEK

QUANTITY: 0.45 CFS

RIGHT NOS. 74-56 AND 74-15658 ARE LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 2.00 CFS.

PRIORITY DATE: 12/31/1982

THIS WATER RIGHT IS SUBORDINATE TO ALL WATER RIGHTS WITH A
PRIORITY DATE EARLIER THAN APRIL 12, 1994, THAT ARE NOT DECREED
AS ENLARGEMENTS PURSUANT TO SECTION 42-1426, IDAHO CODE. AS
BETWEEN WATER RIGHTS DECREED AS ENLARGEMENTS PURSUANT TO SECTION
42-1426, IDAHO CODE, THE EARLIER PRIORITY RIGHT IS THE SUPERIOR
RIGHT.

POINT OF DIVERSION: T14N R26E S06 SWNE Within Lemhi County
S07 NESW
NESW
NWSE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.45 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
T14N R26E S05	SWNW 2.0 SWSW 1.4	NWSW 5.0
S06	SWNE 1.0 NWSW 3.1 NWSE 9.0 SESE 18.0	SENE 3.1 NESE 40.0 SWSE 7.0
89.6 Acres Total		

PLACE OF USE DOES NOT INCLUDE FEDERAL PUBLIC LANDS AND IS
CONTAINED WITHIN HES 236.
RIGHT NOS. 74-15658 AND 74-56 ARE LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 89.6 ACRES IN A SINGLE IRRIGATION SEASON.

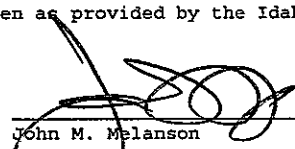
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS RIGHT IS BASED UPON AN ENLARGEMENT OF RIGHT NO. 74-56
PURSUANT TO SECTION 42-1426, IDAHO CODE.

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 OF PARTIAL DECREES was mailed on June 12, 2009, with sufficient first-class postage to the following:

F JAMES WHITTAKER
PAULA J WHITTAKER
Represented by:
SCOTT L CAMPBELL
101 S CAPITOL BLVD 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829
Phone: 208-345-2000

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

~~F JAMES WHITTAKER
PO BOX 240
LEADORE, ID 83464~~

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

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

