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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JAN 23 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

)
) Water Right: 74-15788
) (Whittaker)
)
) ORDER OF PARTIAL DECREE
)
)

On March 21, 2008, the Idaho Department of Water Resources filed its *Late Claims Director's Report for Irrigation and Other Water Rights*, which included recommendation for the above named water right. On September 5, 2008, the Idaho Department of Water Resources filed a *Notice of Completed Administrative Proceeding* and *Amended Director's Report* notifying the Court of an enlargement advertisement for named water right. No objections were filed to the *Amended Director's Report* and the time period for filing objections has expired.

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

January 23, 2009



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 74-15788

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JAN 23 2009	
By _____	Clerk
_____	Deputy Clerk

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

SOURCE: STROUD CREEK TRIBUTARY: LEE CREEK

QUANTITY: 1.97 CFS

Right Nos. 74-1136, 74-369, and 74-15788 are limited to a total
combined diversion rate of 4.40 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: T16N R25E S31 SENE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	1.97 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
	T16N R25E S28	SWNW 40.0 SENW 35.0
		NESW 32.0 NWSW 40.0
		SWSW 36.0 SESW 14.0
	S29	SWNE 40.0 SENE 40.0
		SWNW 34.0 SENW 40.0
		NESW 40.0 NWSW 18.0
		SWSW 15.0 SESW 40.0
		NESE 40.0 NWSE 40.0
		SWSE 39.0 SESE 17.0
	S32	NENW 38.0 NWNW 36.0
	S33	NWNW 12.0
	686.0 Acres Total	

This right is limited to the irrigation of 378.0 acres within
the place of use described above in a single irrigation season.
The rights listed below are limited to the irrigation of a
combined total of 378.0 acres in a single irrigation season.
Combined Right Nos.: 74-369, 74-1136, and 74-15788.

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

This right is based upon an enlargement of Right Nos. 74-369 and
74-1136 pursuant to Section 42-1426, Idaho Code.
This right and right 74-0370 shall not be obliged to pro-rate
with any other parties on Lee Creek, whose appropriation is of
equal priority therewith, in case the flow of the waters of the
Left Fk. of Lee Creek shall be an insufficient quantity to
supply all rights under date of priority of May 12, 1883. When
the flow in the Left Fk. of Lee Creek shall fall below the

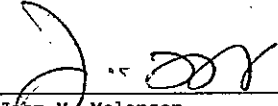
OTHER PROVISIONS (continued)

amounts decreed in rights 74-0369 and 74-0370, the two rights shall be pro-rated according to the respective amounts of water decreed.

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

2009 JAN 23 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): 74-15788

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 74-15788 was mailed
on January 23, 2009, with sufficient first-class postage prepaid
to the following:

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
Phone: 208-768-2491

JULIE MURPHY
Chief Deputy Clerk