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Department of Water Resources
Adjudication Bureau

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
DEC 18 2008	
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

)
) ORDER OF PARTIAL DECREE
)
)
) For Water Right: 63-03618
) (Lucky Peak Reservoir)
)
)

On March 9, 2007, the Idaho Supreme Court issued its opinion in *U.S. v. Pioneer Irr. Dist.*, 144 Idaho 106, 157 P.3d 600, 609 (2007), an appeal from SRBA Consolidated Subcase 91-63. At issue was the ownership of certain Bureau of Reclamation project water rights claimed by both the United States, acting through the United States Bureau of Reclamation, and various irrigation delivery organizations who deliver the project water to their shareholders. The Supreme Court ruled that, while the United States' name should appear on the partial decree, title to the use of the water is held by the beneficial or end users of the water. Accordingly, the Supreme Court ordered the following remark to appear on the face of the partial decree:

The name of the United States of America acting through the Bureau of Reclamation appears in the Name and Address sections of this partial decree. However, as a matter of Idaho constitutional and statutory law title to the use of the water is held by the consumers or users of the water. The irrigation organizations act on behalf of the consumers or users to administer the use of the water for the landowners in the quantities and/or percentages specified in the contracts between the Bureau of Reclamation and the irrigation organizations for the benefit of the landowners entitled to receive distribution of this water from the respective irrigation organizations. The interest of the consumers or users of the water is appurtenant to the lands within the boundaries of or served by such irrigation organizations, and that interest is derived from law and is not

based exclusively on the contacts between the Bureau of Reclamation and the irrigation organizations.

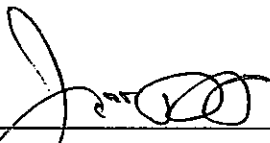
On April 9, 2007, the Idaho Supreme Court filed the Remittitur. On September 23, 2008, this Court issued a *Memorandum Decision and Order on Cross-Motions for Summary Judgment Re: Bureau of Reclamation Streamflow Maintenance Claim (Lucky Peak Reservoir)*, which resolved the remaining objections in the subcase. Pursuant to that *Order*, the Court concluded that the following additional remark should be included in the face of the *Partial Decree*:

The storage rights in Lucky Peak Reservoir are subject to the flood evacuation provisions which supplement irrigation storage contracts held in Anderson Ranch and Arrowrock Reservoirs as defined by supplemental contracts with the Bureau of Reclamation. This acknowledgement relieves the right holder from seeking a temporary change in purpose of use to meet these obligations. The Bureau of Reclamation and Idaho Department of Fish and Game shall provide joint written instructions to the Department, for conveyance to the watermaster, regarding release of the Lucky Peak streamflow maintenance storage water.

No appeal was taken from the *Order* and the time for filing an appeal has expired.

Therefore, IT IS ORDERED that the above-captioned water right is hereby **decreed** as set forth in the attached *Partial Decree pursuant to I.R.C.P. 54(b)*.

Dated December 18, 2008



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 63-03618

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

DEC 18 2008

By _____ Clerk
_____ Deputy Clerk

NAME AND ADDRESS: UNITED STATES OF AMERICA
REGIONAL DIRECTOR PN REGION
BUREAU OF RECLAMATION
1150 N CURTIS RD SUITE 100
BOISE, ID 83706-1234

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 293050.00 AFY

Maximum Volume Annually Diverted to Storage and Release from
Storage: 293,050.0 AF.
The reservoir storage capacity is 293,050 acre feet when filled
to elevation 3055.0 and measured at the upstream face of the
dam.
Lucky Peak Reservoir has 13,950 acre feet of capacity for flood
control purposes in addition to the volume of water authorized
for storage under this right.

PRIORITY DATE: 04/12/1963

POINT OF DIVERSION: T02N R03E S11 LOT 7 (SENE) Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation Storage	01-01 TO 12-31	111950.00 AFY
	Irrigation from Storage	03-01 TO 11-15	111950.00 AFY
	Recreation Storage	01-01 TO 12-31	28800.00 AFY
	Streamflow Maintenance Storage	01-01 TO 12-31	152300.00 AFY
	Streamflow Maintenance from Sto	01-01 TO 12-31	152300.00 AFY

PLACE OF USE:	Irrigation from Storage	Within Ada County
	T02N R03E S11 LOT 4 (NENE)	NESE
	S12 NWNW	SWSW
	R04E S04 SWSW	
	S05 LOT 8 (SWNE)	LOT 6 (SWNW)
	NESE	NWSE
	SWSE	SESE
	S06 SWNE	NESW
	LOT 8 (SWSW)	LOT 9 (SESW)
	LOT 6 (NESE)	NWSE
	LOT 11 (SESE)	
	S07 NWNE	SWNE
	LOT 1 (NENW)	SENW
	NESW	LOT 4 (NWSW)
	NWSE	
		Within Boise County
	T03N R04E S05 SENE	
	S11 SENE	LOT 1 (NESE)
	S12 SWNW	LOT 1 (NWSW)
		Within Elmore County
	S22 LOT 3 (NENW)	SWNW
	SENW	
		Within Ada County
	S32 LOT 1 (NWNE)	SWNE
	LOT 5 (NWSE)	LOT 10 (SWSE)
	Recreation Storage	Within Ada County

PLACE OF USE (continued)

Same as Irrigation Storage	
Streamflow Maintenance Storage	Within Ada County
Same as Irrigation Storage	
Irrigation Storage	Within Ada County
Lucky Peak Reservoir	
Streamflow Maintenance from Storate	Within Ada County
Wtinin the Channel of the Boise River from Lucky Peak Dam	
downstream to the confluence with the Snake River.	
The place of use is within the Boise Federal Reclamation Project	
within Ada, Canyon, Payette, and Gem Counties, Idaho; Malheur	
County, Oregon; and the above-listed tracks in Ada, Boise, and	
Elmore Counties, Idaho.	

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

Recreation Storage (inactive storage) shall not be released from storage for a beneficial use.

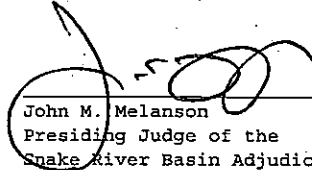
The name of the United States of America Acting Through the Bureau of Reclamation appears in the Name and Address Section of this Partial Decree. However, as a matter of Idaho constitutional and statutory law, title to the use of the water is held by the consumers or users of the water. The irrigation organizations act on behalf of the consumers or users to administer the use of the water for the landowners in the quantities and/or percentages specified in the contracts between the Bureau of Reclamation and the irrigation organizations for the benefit of the landowners entitled to receive distribution of this water from the respective irrigation organizations. The interest of the consumers or users of the water is appurtenant to the lands within the boundaries of or served by such irrigation organizations, and that interest is derived from law and is not based exclusively on the contracts between the Bureau of Reclamation and the irrigation organizations.

The storage rights in Lucky Peak Reservoir are subject to the flood evacuation provisions which supplement irrigation storage contracts held in Anderson Ranch and Arrowrock Reservoirs as defined by supplemental contracts with the Bureau of Reclamation. This acknowledgement relieves the right holder from seeking a temporary change in purpose of use to meet these obligations. The Bureau of Reclamation and Idaho Department of Fish and Game shall provide joint written instructions to the Department, for conveyance to the watermaster, regarding release of the Lucky Peak streamflow maintenance storage water.

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 DECREE was mailed on December 18, 2008, with sufficient first-class postage to the following:

BOISE PROJECT BOARD OF CONTROL

Represented by:
ALBERT P BARKER
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

NAMPA & MERIDIAN IRRIGATION
SOUTH BOISE WATER COMPANY

Represented by:
DANIEL V. STEENSON
455 S THIRD ST
PO BOX 2773
BOISE, ID 83701-2773
Phone: 208-342-4591

ADA COUNTY & BOARD OF ADA
ADA COUNTY AND ADA COUNTY
CITY OF BOISE

Represented by:
ERIKA E MALMEN
251 EAST FRONT ST STE 400
BOISE, ID 83702-7310
Phone: 208-343-3434

CANYON COUNTY WATER COMPANY
FARMERS UNION DITCH COMPANY
MIDDLETON IRRIGATION ASSN
MIDDLETON MILL DITCH COMPANY

Represented by:
JERRY A. KISER
620 WEST HAYES
BOISE, ID 83702
Phone: 208-336-1020

STATE OF IDAHO, DEPT OF F & G

Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

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SOUTH BOISE WATER COMPANY

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PIONEER IRRIGATION DISTRICT
SETTLERS IRRIGATION DISTRICT

Represented by:
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101 S CAPITOL BLVD 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829
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BOISE PROJECT BOARD OF CONTROL

Represented by:
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Phone: 208-336-0700

UNITED STATES OF AMERICA

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

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

