

DEPARTMENT OF
WATER RESOURCES

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

MAR - 5 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 SETTING ASIDE PARTIAL
DECREE AND DISALLOWING WATER
RIGHT CLAIM: For water right claim 85-
15496**

ORDER OF PARTIAL DECREE: For water right claims 85-15691 and 85-15692 (Split from 85-15496)

On January 25, 2008, a *Special Master's Report and Recommendation* was filed for the above-captioned water right recommending that the *Partial Decree* issued for water right claim 85-15496 be set aside based on a pending partition of the property to which the right was appurtenant and an error in the point of diversion. On August 6, 2007, IDWR filed a *Notice of Completed Administrative Proceeding* (NCAP) splitting the right and correcting the error in the point of diversion. 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 Recommendation* and wholly adopts them as its own.

Therefore; THE FOLLOWING ARE HEREBY ORDERED AND ADJUDGED:

The Motion to Set Aside Partial Decree is Granted.

The *Partial Decree* issued previously for water right claim 85-15496 is **set aside and the claim is disallowed with prejudice** and shall not be confirmed in any partial decree or in any final decree entered in the SRBA, Case No. 39576, in whatever form that final decree may take or be styled.

ORDER GRANTING MOTION TO SET ASIDE; ORDER DISALLOWING WATER RIGHT CLAIM; ORDR OF PARTIAL DECREE

Water right claims **85-15691** and **85-15692** are decreed as set forth in the attached
Partial Decree Pursuant to I.R.C.P. 54(b).

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.

Dated: March 5, 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 85-15692

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

MAR - 5 2008

By _____ Clerk

Deputy Clerk

NAME AND ADDRESS: PATRICIA B SMYTH
1436 BRYDEN AVE
LEWISTON, ID 83501

SOURCE: SPRING TRIBUTARY: NORTH FORK WILLOW CREEK

QUANTITY: 0.04 CFS

Right Nos. 85-15691 and 85-15692 are limited to a total combined
diversion rate of 0.04 cfs, and the quantity of water under
both rights shall not exceed 13,000 gallons per day.

PRIORITY DATE: 12/31/1918

POINT OF DIVERSION: T32N R02W S02 LOT 5 (SENENW) Within Lewis County
LOT 5 (SENENW)
LOT 18 (NESE)
LOT 19 (NWSE)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS
	Domestic	01-01 TO 12-31	0.04 CFS

PLACE OF USE:	Stockwater	Within Lewis County
	T32N R02W S02 LOT 5 (NENW)	LOT 18 (NESE)
	LOT 19 (NWSE)	
	Domestic	Within Lewis County
	T32N R02W S02 LOT 5 (NENW)	

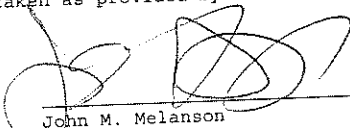
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right is not a
determination of historical beneficial use.

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
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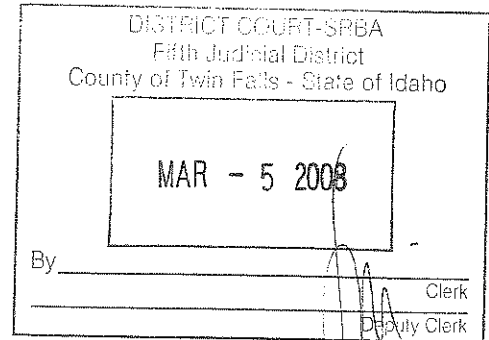

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

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

In Re SRBA)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 85-15691



NAME AND ADDRESS: DARLENE D LILLEHAUG
JOHN A LILLEHAUG
PO BOX 1250
MC CALL, ID 83638

SOURCE: SPRING TRIBUTARY: NORTH FORK WILLOW CREEK

QUANTITY: 0.02 CFS

Right Nos. 85-15691 and 85-15692 are limited to a total combined
diversion rate of 0.04 cfs, and the quantity of water under both
rights shall not exceed 13,000 gallons per day.

PRIORITY DATE: 12/31/1918

POINT OF DIVERSION: T32N R02W S02 LOT 26 (SESE) Within Lewis County
S11 NWNE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Stockwater Within Lewis County
T32N R02W S02 LOT 26 (SESE)
S11 NWNE

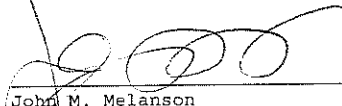
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right is not a
determination of historical beneficial use.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
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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 SETTING ASIDE PARTIAL DECREE AND DISALLOWING WATER RIGHT CLAIM AND ORDER OF PARTIAL DECREE was mailed on March 05, 2008, with sufficient first-class postage to the following:

PATRICIA B SMYTH

Represented by:

ALBERT P BARKER

1010 W JEFFERSON, STE 102

PO BOX 2139

BOISE, ID 83701-2139

Phone: 208-336-0700

DARLENE D BRAUCHER LILLEHAUG

DARLENE D LILLEHAUG

Represented by:

MERRILY MUNTHER

PO BOX 199

BOISE, ID 83701

Phone: 208-344-4566

JOHN A LILLEHAUG

PO BOX 1250

MC CALL, ID 83638

M LOUISE BRAUCHER

WARREN E BRAUCHER

PO BOX 337

CRAIGMONT, ID 83523

Phone: 208-924-5639

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

