



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

October 2, 2007

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

CHRISTOPHER MEIER
1556 POEN ROAD
KUNA ID 83634

RE: APPLICATION FOR TRANSFER 73893

Dear Mr. Meier:

Our office received your letter dated September 27, 2007. This letter is an attempt to address the question raised in your letter. I also explained the reason for the reduction to Mr. Drury when he brought in your signed application and letter. Therefore, Mr. Drury should be able to explain this standard practice to you.

Your water right 63-32160 was decreed on 4/11/2007 with a diversion rate of 0.20 cfs and 45 afy. However, it was also decreed with a condition that states as follows:

Use of the rights listed below is limited to a total combined diversion rate of 11.15 cfs. Combined right numbers : 63-7426, 67-7430A, 63-7430D, 63-31321, 63-31322, 63-31744, 63-32159, 63-32160, 63-32117, 63-32118, and 63-32119.

This condition is applied to a water system with multiple water rights involved. When the water rights are under the same system and diverting from the same wells or points of diversion, the owner or owners have the ability to not use or reduce one right and use the junior rights at their full value. For example, if the water user for 63-7426 decides to allow his ground to go fallow or not irrigate, you have the right to use your water right at the full value of 0.20 cfs. However, if everyone is using their water right, you are only allowed to use proportionate share of the 11.15 cfs or 0.16 cfs, because you are the junior water right holder.

When water rights are taken away from the single system, the water rights and this condition must be adjusted for all of the water rights, so that all of the rights can be properly regulated. If a senior water right user leaves the system, then their full water right would be taken away from the system capacity or the 11.15 cfs mentioned above. Unfortunately, you have a junior right, so we can only take away your proportionate share of the limitation of the system capacity or 0.16 cfs out of the 11.15 cfs mentioned above. Since we can only reduce the system capacity by 0.16 cfs, we can only allow you to divert your proportionate share of the system capacity through your new separate system.

Page 2
Meier

If we didn't do this, then as all the rights are split into new separate systems and new points of diversion, there would be no central control on all of the water rights and no way to regulate the multiple systems. The result would be that the combined limitation would increase causing an enlargement of all of the water rights associated with this condition. Idaho Code § 42-222 does not allow us to approve a water right transfer if it proposes an expansion of the water right.

Therefore, we can only approve a transfer that has a diversion rate for the proportionate share of the system capacity or 0.16 cfs for your water right. Once we approve the transfer, the combined diversion rate condition will be removed from your water right, because it will no longer be subject to the system limitation.

The only way that we can allow the full 0.20 cfs under this right is if it remains with the original system. Under those circumstances, there would be no need for the transfer.

I have explained this to Mr. Drury in detail, so if you are still having problems understanding this you may want to make an appointment with him to sit down and go over this issue in a little more detail. If there are still questions, you and Mr. Drury can contact me and I would be happy to sit down with both of you and explain this situation in person. I find that it is easier to explain these types of issues in a one to one situation.

I have enclosed a copy of your decree with the condition discussed above highlighted. I have also enclosed a copy of Idaho Code § 42-222

Respectfully,

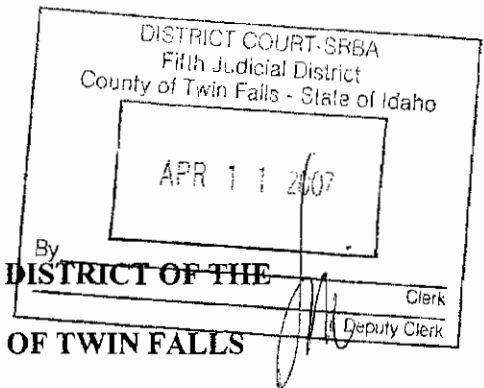
A handwritten signature in black ink that reads "Daniel A. Nelson". The signature is fluid and cursive, with the first name being the most prominent.

Daniel A. Nelson
Sr. Water Right Agent

Enclosures

Cc Pual Drury.

APR 13 2007
DEPARTMENT OF
WATER RESOURCES



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: 63-32160
Case No. 39576)
ORDER OF PARTIAL DECREE
_____)

On December 16, 2005, the Idaho Department of Water Resources filed its *Director's Report for Basin 63, Part II, Reporting Area 13, for Irrigation and Other Water Rights*, which included recommendations for the above named water right. No objections were filed and the time period for filing objections has expired.

On April 24, 2006, the Idaho Department of Water Resources filed a *Notice of Completed Administrative Proceeding and Amended Director's Report* notifying the Court of a substitution of party. 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 April 3, 2007.



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 : PARTIAL DECREE PURSUANT TO
Case No. 39576 : I.R.C.P. 54(b) FOR
Water Right 63-32160

NAME AND ADDRESS: CHRISTOPHER MEIER
KATIE MEIER
1556 POEN RD
KUNA, ID 83634

SOURCE: GROUND WATER

QUANTITY: 0.20 CFS
45.00 APY

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 11.15 CFS. COMBINED RIGHT NOS.: 63-1416
63-7400A, 63-4002, 63-31321, 63-31322, 63-31344, 63-32159,
63-32160, 63-32177, 63-32178, 63-32179.

PRIORITY DATE: 05/10/1971

POINT OF DIVERSION: TWIN RD1E S18 LOT 4 (SESW) Within Ada County
S19 NWNESW

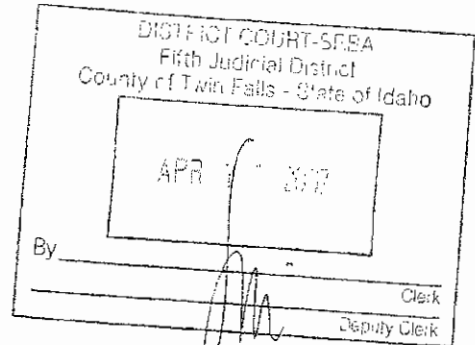
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.20 CFS
			45.00 APY

The use of water for irrigation under this right may begin as
early as March 1, provided other elements of the right are not
exceeded. The use of water before March 15 under this remark is
subordinate to all water rights having no subordinated early or
late irrigation use and a priority date earlier than the date a
partial decree is entered for this right.

PLACE OF USE: Irrigation Within Ada County
TWIN RD1W S13 LOT 4 (SESE) 10.0
10.0 Acres Total

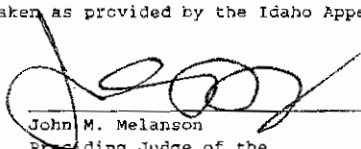
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

2007 APR 11 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

Case No. 39576

)
)
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)
CERTIFICATE OF MAILING

Water Right(s): 63-32160

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 63-32160 was mailed
on April 11, 2007, with sufficient first-class postage prepaid
to the following:

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

CHRISTOPHER MEIER
KATIE MEIER
1556 POEN RD
KUNA, ID 83634

JULIE MURPHY
Chief Deputy Clerk



Idaho Statutes

TITLE 42

IRRIGATION AND DRAINAGE -- WATER RIGHTS AND RECLAMATION

CHAPTER 2

APPROPRIATION OF WATER -- PERMITS, CERTIFICATES, AND LICENSES -- SURVEY

42-222. CHANGE IN POINT OF DIVERSION, PLACE OF USE, PERIOD OF USE, OR NATURE OF USE OF WATER UNDER ESTABLISHED RIGHTS -- FORFEITURE AND EXTENSION -- APPEALS. (1) Any person, entitled to the use of water whether represented by license issued by the department of water resources, by claims to water rights by reason of diversion and application to a beneficial use as filed under the provisions of this chapter, or by decree of the court, who shall desire to change the point of diversion, place of use, period of use or nature of use of all or part of the water, under the right shall first make application to the department of water resources for approval of such change. Such application shall be upon forms furnished by the department and shall describe the right licensed, claimed or decreed which is to be changed and the changes which are proposed, and shall be accompanied by the statutory filing fee as in this chapter provided. Upon receipt of such application it shall be the duty of the director of the department of water resources to examine same, obtain any consent required in section 42-108, Idaho Code, and if otherwise proper to provide notice of the proposed change in a similar manner as applications under section 42-203A, Idaho Code. Such notice shall advise that anyone who desires to protest the proposed change shall file notice of protests with the department within ten (10) days of the last date of publication. Upon the receipt of any protest, accompanied by the statutory filing fee as provided in section 42-221, Idaho Code, it shall be the duty of the director of the department of water resources to investigate the same and to conduct a hearing thereon. He shall also advise the watermaster of the district in which such water is used of the proposed change and the watermaster shall notify the director of the department of water resources of his recommendation on the application, and the director of the department of water resources shall not finally determine the action on the application for change until he has received from such watermaster his recommendation thereof, which action of the watermaster shall be received and considered as other evidence. For applications proposing to change only the point of diversion or place of use of a water right in a manner that will not change the effect on the source for the right and any other hydraulically-connected sources from the effect resulting under the right as previously approved, and that will not affect the rights of other water users, the director of the department of water resources shall give only such notice to other users as he deems appropriate.

When the nature of use of the water right is to be changed to municipal purposes and some or all of the right will be held by a municipal provider to serve reasonably anticipated future needs, the municipal provider shall provide to the department sufficient information and documentation to establish that the applicant qualifies as a municipal provider and that the reasonably anticipated future needs, the service area and the planning horizon are consistent with the definitions and requirements specified in this chapter. The service area need not be described by legal description nor by description of every intended use in detail, but the area must be described with sufficient information to identify the general location where the water under the water right is to be used and the types and quantity of uses that generally will be made.

When a water right or a portion thereof to be changed is held by a municipal provider for municipal purposes, as defined in section 42-202B,

(2) All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter; except that any right to the use of water shall not be lost through forfeiture by the failure to apply the water to beneficial use under certain circumstances as specified in section 42-223, Idaho Code.

(4) Application for an extension shall be made before the end of the five (5) year period upon forms to be furnished by the department of water resources and shall fully describe the right on which an extension of time to resume the use is requested and the reasons for such nonuse and shall be accompanied by the statutory filing fee; provided that water rights protected from forfeiture under the provisions of section 42-223, Idaho Code, are exempt from this requirement.

10/2/2007

applications under section 42-203A, Idaho Code. The notice shall fully describe the right, the extension which is requested and the reason for such nonuse and shall state that any person desiring to object to the requested extension may submit a protest, accompanied by the statutory filing fee as provided in section 42-221, Idaho Code, to the director of the department of water resources within ten (10) days of the last date of publication.

(b) Upon receipt of a protest it shall be the duty of the director of the department of water resources to investigate and conduct a hearing thereon as in this chapter provided.

(c) The director of the department of water resources shall find from the evidence presented in any hearing, or from information available to the department, the reasons for such nonuse of water and where it appears to the satisfaction of the director of the department of water resources that other rights will not be impaired by granting an extension of time within which to resume the use of the water and good cause appearing for such nonuse, he may grant one (1) extension of five (5) years within which to resume such use.

(d) In his approval of the application for an extension of time under this section the director of the department of water resources shall set the date when the use of water is to be resumed. Sixty (60) days before such date the director of the department of water resources shall forward to the applicant at his address of record a notice by certified mail setting forth the date on which the use of water is to be resumed and a form for reporting the resumption of the use of the water right. If the use of the water has not been resumed and report thereon made on or before the date set for resumption of use such right shall revert to the state and again be subject to appropriation, as provided in this section.

(e) In the event the director of the department of water resources determines that a proposed extension of time within which to resume use of a water right shall not be approved as provided in this section, he shall deny same and forward notice of such action to the applicant by certified mail, which decision shall be subject to judicial review as hereafter provided.

(5) Any person or persons feeling themselves aggrieved by the determination of the department of water resources in approving or rejecting an application to change the point of diversion, place, period of use or nature of use of water under an established right or an application for an extension of time within which to resume the use of water as provided in this section, may, if a protest was filed and a hearing held thereon, seek judicial review pursuant to section 42-1701A(4), Idaho Code. If no protest was filed and no hearing held, the applicant may request a hearing pursuant to section 42-1701A(3), Idaho Code, for the purpose of contesting the action of the director and may seek judicial review of the final order of the director following the hearing pursuant to section 42-1701A(4), Idaho Code.

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