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DEPARTMENT OF
WATER RESOURCES

2005 SEP 26 PM 4:10

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
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CO.,

**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

) **ORDER OF PARTIAL DECREE**

)
) **FINDINGS OF FACT AND**
) **CONCLUSIONS OF LAW**

Case No. 39576

) **FOR WATER RIGHT: 82-12172**
)
)
)
)

I. PROCEDURAL HISTORY

The United States filed the above water right claim on a "dual" basis, meaning the right was claimed based on both a state-based beneficial use water right and as a Federal reserved water right based on Public Water Reserve (PWR) 107. This right was reported to the Court in a *Director's Report* by the Idaho Department of Water Resources on January 20, 2005. No objections were filed to the *Director's Report*, and the time for objections has expired. Pursuant to I.C. § 42-1411A(12), the Court held an evidentiary hearing on June 21, 2005. In conjunction with that hearing, the United States submitted affidavits that supported the federal basis for the right and elected to receive the federal-based right in lieu of the state-based right. Mr. David Negri appeared for the United States. No one appeared opposing the right.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the file and record in this subcase, and the affidavits presented at the hearing on the matter, the Court makes the following findings of fact and conclusions of law:

1. Prior to April 17, 1926, no water rights had been established pursuant to state law for the use of the water from the subject water source for the above claims.

3. On April 17, 1926, President Coolidge executed Public Water Reserve 107, which

withdrew the 40 acre tract of land upon which the subject water source for each claim is located from the public domain. The tract of land withdrawn for each claim is described as the "place of use" element on the attached *Partial Decree*.

4. The subject water source for each of the claims consists of a spring or water hole of the type contemplated by Public Water Reserve 107.

5. Contemporaneously with the withdrawal of the land, President Coolidge impliedly reserved enough water to fulfill the primary purpose of the land reservation for each claim.

6. The minimum amount of water necessary to fulfill the primary purpose of the land reservation is the amount set forth in the "quantity" element on the attached *Partial Decree* for each claim.

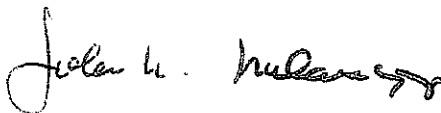
7. The United States has satisfied its burden under Idaho Code section § 42-1411A(12) as to the nature and existence of the claimed federal reserve water right for each claim.

8. The elements of the federal reserved water right are set forth on the attached *Partial Decree*.

III. ORDER OF PARTIAL DECREE

Therefore, based on the file and record herein, 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 September 26, 2005 .



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
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 82-12172

2005 SEP 26 PM 4:09

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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DISTRICT
TWIN FALLS
FILED

NAME AND ADDRESS: UNITED STATES OF AMERICA
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657

SOURCE: SPRING TRIBUTARY: KIRKS FORK

QUANTITY: 0.02 CFS

The quantity of water under this right shall not exceed 13,000
gallons per day.

PRIORITY DATE: 04/17/1926

4/17/1926 DECREED UNDER FEDERAL RESERVED WATER RIGHT.
THIS WATER RIGHT IS DECREED BASED ON FEDERAL LAW WITH AN
APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN EXECUTIVE ORDER
SIGNED THE SAME DATE AND KNOWN AS PUBLIC WATER RESERVE 107.

POINT OF DIVERSION: T29N R08E S25 NWNESE Within Idaho County

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 Idaho County
T29N R08E S25 NESE

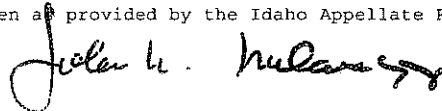
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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
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

2005 SEP 26 PM 4:10

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

2005 SEP 26 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): 82-12172

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 82-12172 was mailed
on September 26, 2005, with sufficient first-class postage prepaid
to the following:

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

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

DIANA DELANEY
Chief Deputy Clerk