

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 85-07583

NAME AND ADDRESS: STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE, ID 83720-0098

SOURCE: CLEARWATER RIVER TRIBUTARY: SNAKE RIVER

Approval of this minimum stream flow shall not prevent approval of applications for consumptive uses from ground water if the wells are located and constructed to prevent an immediate impact on the river, as determined by the Director.

QUANTITY: 3515.00 CFS

PRIORITY DATE: 07/30/1992

The approved minimum stream flow shall be subordinate to future domestic, stockwater, municipal, commercial, and industrial development from the Clearwater River and its tributaries, including ground water, for use within the Clearwater River Basin where the domestic and stockwater uses are within the limitations of Section 42-111, Idaho Code.
Use of water under this right shall recognize and allow the continued beneficial diversion of water under any existing water right established by diversion and application to beneficial use or by an application, permit, or license on file or issued by the Director under the provisions of Chapter 2, Title 42, Idaho Code, with a priority earlier than July 30, 1992.

POINT OF DIVERSION: T32N R04E S05 LOT 7 (SWNE) (Instream Beginning Point) Within Idaho County
T37N R01E S33 LOT 8 (NWSESE) (Instream Ending Point) Within Clearwater County

The reach of this minimum stream flow begins at the confluence of the South Fork Clearwater and the Middle Fork Clearwater River in Lot 7 (SWNE), Section 5, T32N, R4E, B.M. and extends downstream approximately 34 miles to the confluence with North Fork Clearwater River in Lot 8 (NWSESE), Section 33, T37N, R1E, B.M.

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Minimum Stream Flow	12-01 TO 07-31	3515.00 CFS
	Minimum Stream Flow	08-01 TO 11-30	1836.00 CFS

Use of water under this right shall be non-consumptive.

PLACE OF USE:

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

THIS RIGHT IS CONDITIONED UPON COMPLETION OF THE APPROPRIATION IN ACCORDANCE WITH THE STATUTORY PROCEDURE FOR APPROPRIATION OF WATER RIGHTS. THIS RIGHT REMAINS SUBJECT TO ALL CONDITIONS SET FORTH IN THE PERMIT UPON WHICH THIS RIGHT IS BASED, AND WILL BE SUBJECT TO ALL CONDITIONS SET FORTH IN THE LICENSE ISSUED BY IDWR UPON COMPLETION OF THE STATUTORY APPROPRIATION PROCESS. Upon further finding and order of the Director that gaging stations are required to maintain the approved minimum flow on

OTHER PROVISIONS (continued)

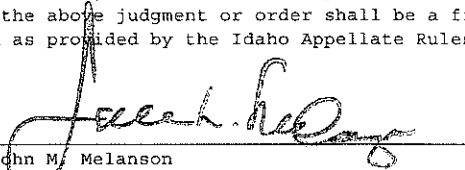
the Clearwater River, such measuring devices shall be permanently installed and maintained by the Board as specified by the Director.

The Board, upon receiving a request or upon its own initiative, may petition the Director for an amendment to the permit or license. The petition must set forth any significant change in circumstances and evidence of the public interest supporting the proposed amendment. The Director will notify the general public and specific persons or known interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the permit or subsequent license should be amended in the public interest. The burden of proof at the hearing shall be upon the persons or parties seeking the amendment to establish that the amendment of the permit or license would be in the public interest. An amendment cannot increase the flow rate.

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