

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 45-00681

NAME AND ADDRESS: GINGER JUSTESEN
NEIL JUSTESEN
PO BOX 186
OAKLEY, ID 83346

SOURCE: MILL CREEK TRIBUTARY: SINKS
WARM SPRING TRIBUTARY: SINKS

QUANTITY: 0.40 CFS
2.70 AFY

PRIORITY DATE: 12/31/1879

POINT OF DIVERSION: T14S R23E S09 NENWNW Within Cassia County
S10 NENWNW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.40 CFS
	Stockwater	01-01 TO 12-31	0.05 CFS
			2.70 AFY

PLACE OF USE: Irrigation Within Cassia County
T14S R23E S05 SWNE 16.0 SENE 20.0
36.0 Acres Total

Stockwater Within Cassia County
T14S R23E S05 SWNE SENE

USE OF THIS RIGHT WITH RIGHT NO. 45-633 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 36 ACRES IN A SINGLE
IRRIGATION SEASON.

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

During times of low flow when the quantity of water is not sufficient to fill all the December 31, 1879 priority rights from the surface and ground waters of Mill Creek, Warm Springs, Spring Creek, Summit Creek, and their tributaries, the practice of delivery by rotation among individual appropriators within groups of water users may occur by agreement of the parties, or according to common practice and usage, provided that no water right user shall be denied the right to receive water on a continuous flow basis by reason of this decree.

Priority of appropriation shall give the better right as among those using the surface and ground waters of Mill Creek, Warm Springs, Spring Creek, Summit Creek, and their tributaries, and rights having the same priority date shall share equally in the available water supply in a manner that will equally apportion all natural channel losses among rights having the same date of priority. For example, if there are seven points of diversion from the natural channel, which have the same 1879 date of priority, and the flow in the stream is equal to one-half of the amount of flow necessary to fully satisfy all of the 1879 priorities at their respective points of diversion, then the diversion rates at each of the seven points of diversion shall be reduced by one-half. A pro rata sharing of the water in the stream shall continue to be enforced among rights of equal 1879

OTHER PROVISIONS (continued)

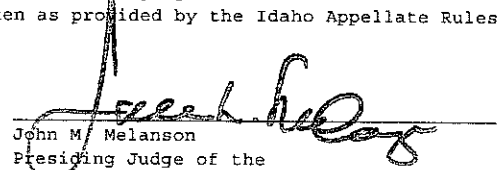
priority until the watermaster shall have determined that water in the stream is inadequate to reach a downstream 1879 point of diversion in a sufficient quantity to be applied to beneficial use. Thereafter, upstream 1879 appropriators who are still able to receive water in a sufficient quantity to be applied to beneficial use shall continue a pro rata sharing of the water in the stream.

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. Section 42-1412(6), Idaho Code.

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