2005 JUN 23 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	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 82-12186

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: TELEPHONE CREEK

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 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT.* THIS WATER RIGHT IS ALSO CLAIMED 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 S12 NWNWNE 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 S12 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 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

RECEIVED
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DEPARTMENT OF
WATER RESOURCES

2005 JUN 23 PM 4:21
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	)	**ORDER OF PARTIAL DECREE**
	)	
	)	**FINDINGS OF FACT AND CONCLUSIONS OF LAW**
	)	
Case No. 39576	)	**FOR WATER RIGHTS: 82-10763 *et al.***
	)	**See attached exhibit A**
	)	
	)	

I. PROCEDURAL HISTORY

The United States filed the above water right claims on a "dual" basis, meaning the rights were 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. The rights were 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 rights and elected to receive the federal-based rights in lieu of the state-based rights. Mr. David Negri appeared for the United States. No one appeared opposing the rights.

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 for each claim are set forth on the attached ***Partial Decrees***.

III. ORDER OF PARTIAL DECREE

Therefore, based on the file and record herein, IT IS ORDERED that the above-captioned water rights are hereby **decreed** as set forth in the attached ***Partial Decrees Pursuant to I.R.C.P. 54(b)***.

Dated June 22 2005 .

JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

EXHIBIT A

Subcase Nos:

82-10763	82-12177
82-10777	82-12178
82-10797	82-12179
82-12003	82-12180
82-12127	82-12181
82-12128	82-12182
82-12129	82-12183
82-12130	82-12184
82-12131	82-12185
82-12132	82-12186
82-12133	82-12187
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82-12170	
82-12171	
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82-12174	
82-12175	
82-12176	

(Subcase list: B82UNCONFD)
6/22/05