

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)
_____) Water Right 82-12169

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: BOX SING 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 S24 NWSENE Within Idaho County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
 Stockwater 01-01 TO 12-31 0.02 CFS

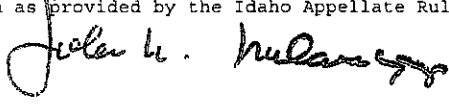
PLACE OF USE: Stockwater Within Idaho County
 T29N R08E S24 SENE

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

JUN 24 2005

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
82-12135	82-12188
82-12136	82-12189
82-12137	82-12190
82-12138	82-12191
82-12139	82-12192
82-12140	82-12193
82-12141	82-12194
82-12142	82-12195
82-12143	82-12196
82-12145	82-12197
82-12146	82-12198
82-12147	82-12199
82-12148	82-12200
82-12149	82-12201
82-12150	82-12202
82-12151	82-12203
82-12152	82-12204
82-12153	82-12205
82-12154	82-12206
82-12155	82-12207
82-12156	82-12208
82-12157	82-12209
82-12159	82-12210
82-12160	82-12211
82-12161	82-12212
82-12162	82-12213
82-12163	
82-12164	
82-12165	
82-12166	
82-12167	
82-12168	
82-12169	
82-12170	
82-12171	
82-12173	
82-12174	
82-12175	
82-12176	

(Subcase list: B82UNCONFD)
6/22/05