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DEPARTMENT OF
WATER RESOURCES

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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 The tract of land withdrawn for each claim is described as the "place of use" element on the attached *Partial Decree*.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
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82-12131	82-12185
82-12132	82-12186
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82-12176	

(Subcase list: B82UNCONFD)
6/22/05