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JUN 29 2005
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUN 29 2005	
By _____	Clerk Deputy Clerk

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

Water Right: 45-00685

Case No. 39576

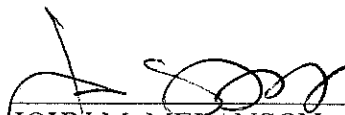
ORDER OF PARTIAL DECREE

On September 7, 2004, the Idaho Department of Water Resources filed its *Director's Report for Basin 45, Reporting Area 10, For Irrigation and Other Water Rights*, which included recommendations for the above named water right. No objections were filed and the time period for filing objections has expired.

On February 10, 2005, the Idaho Department of Water Resources filed a *Notice of Completed Administrative Proceeding and Amended Director's Report* notifying the Court of a change in the point of diversion and place of use in the above named water right. No objections were filed to the *Amended Director's Report* and the time period for filing objections has expired.

Therefore, IT IS ORDERED that the above-captioned water right be decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED June 28, 2005.


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

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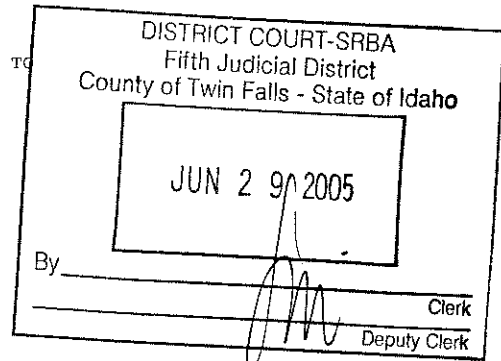
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 45-00685



NAME AND ADDRESS: GLEN CRAIG SMITH
VICKIE SMITH
155 E 2069 S
OAKLEY, ID 83346

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

QUANTITY: 0.02 CFS

The stockwater use authorized under this right shall not exceed
0.04 afa.

Prior to diversion of water under this approval, the right
holder shall provide a means of measurement and lockable
controlling works for all authorized points of diversion. The
means of measurement and controlling works must be suitable for
control of the diversions and acceptable to the watermaster.

The total instantaneous diversion of water from all points of
diversion under Rights 45-581C, 45-582C and 45-685 shall not
exceed 0.72 cfs.

PRIORITY DATE: 12/31/1879

POINT OF DIVERSION: T14S R23E S03 SENESW Within Cassia County
SENESW (Rediversion)
NENWSW (Rediversion)
NENWSW
NESWSE (Injection)
S10 SWSENE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.02 CFS
	Stockwater	01-01 TO 12-31	0.01 CFS

PLACE OF USE:	Irrigation		Within Cassia County
	T14S R23E S03	SWSW 1.5	
	S04	SWNE 13.0	SENE 38.0
	52.5 Acres Total		
Stockwater			Within Cassia County
	T14S R23E S03	SWSW	
	S04	SWNE	SENE

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

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

OTHER PROVISIONS (continued)

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 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.

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.

Use of water under this water right will be regulated by the watermaster of State Water District No. 45-A.

The right holder shall accomplish the change authorized by transfer 67922 by January 13, 2006.

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.

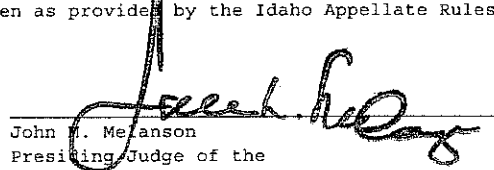
This right is limited to the irrigation of 1.5 acres within the place of use described above in a single irrigation season.

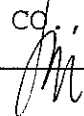
Approval of Transfer 67922 does not grant any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.

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 P. Melanson
Presiding Judge of the
Snake River Basin Adjudication

2005 JUN 29 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)
)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 45-00685

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 45-00685 was mailed
on June 29, 2005, with sufficient first-class postage prepaid
to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

GLEN CRAIG SMITH
VICKIE SMITH
155 E 2069 S
OAKLEY, ID 83346
Phone: 208-862-3358

JULIE MURPHY
Chief Deputy Clerk

