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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: 45-00581C**
	)	
Case No. 39576	)	**ORDER OF PARTIAL DECREE**
	)	

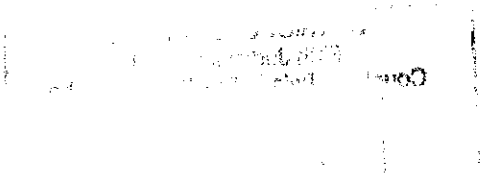
On September 7, 2004, the Idaho Department of Water Resources filed its *Director's Report for Basin 45, Reporting Area 10, For Irrigation and Other Water Rights,* which included recommendations for the above named water right. No objections were filed and the time period for filing objections has expired.

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.

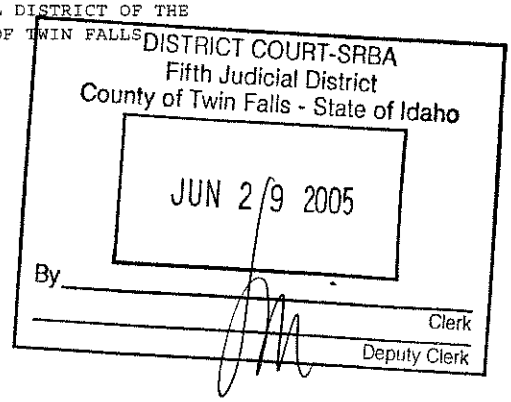
Therefore, IT IS ORDERED that the above-captioned water right be decreed as set forth in the attached ***Partial Decree Pursuant to I.R.C.P. 54(b)***.

DATED June 28, 2005.

JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication



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 45-00581C

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: 0.40 CFS

The stockwater use authorized under this right shall not exceed 2.7 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	0.40 CFS
Stockwater	01-01 TO 12-31	0.05 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

This right is limited to the irrigation of 51 acres within the place of use described above in a single irrigation season.

Rights 45-581C and 45-582C when combined shall not exceed irrigation of 51 acres.

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

OTHER PROVISIONS (continued)

right user shall be denied the right to receive water on a continuous flow basis by reason of this decree.
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.
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 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.

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 reveiw of the validity of this water right in the ongoing Snake River Basin Adjudication.

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 M. 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)	CERTIFICATE OF MAILING
)	
Case No. 39576)	
)	Water Right(s): 45-00581C

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 45-00581C 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