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FEB 25 2005

DEPARTMENT OF  
WATER RESOURCES

2005 FEB 24 PM 3:35

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

Water Right: 83-07099

Case No. 39576


ORDER OF PARTIAL DECREE

On September 21, 2004, the Idaho Department of Water Resources filed its *Director's Report for Basin 83, 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 November 17, 2004, the Idaho Department of Water Resources filed a *Notice of Completed Administrative Proceeding and Amended Director's Report*, notifying the Court of changes to the elements in the above named water right. No objections were filed to this *Amended Director's Report* and the time period for filing objections has expired.

Therefore, IT IS ORDERED that water right 83-07099 be decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED February 24, 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 )  
Case No. 39576 )  
PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 83-07099

2005 FEB 24 PM 3:35

DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED

NAME AND ADDRESS: STATE OF IDAHO  
IDAHO WATER RESOURCE BOARD  
STATEHOUSE MAIL  
PO BOX 83720  
BOISE, ID 83720-0098

SOURCE: ELK CREEK TRIBUTARY: NORTH FORK CLEARWATER RIVER

QUANTITY: 120.00 CFS

PRIORITY DATE: 02/10/1989

USE OF WATER UNDER THIS RIGHT SHALL RECOGNIZE AND ALLOW THE  
CONTINUED BENEFICIAL DIVERSION OF WATER UNDER ANY PRIOR EXISTING  
WATER RIGHT ESTABLISHED BY DIVERSION AND APPLICATION TO  
BENEFICIAL USE OR BY AN APPLICATION, PERMIT, OR LICENSE ON FILE  
OR ISSUED BY THE DIRECTOR UNDER THE PROVISIONS OF CHAPTER 2,  
TITLE 42, IDAHO CODE, WITH A PRIORITY OF WATER RIGHT DATE  
EARLIER THAN THE DATE OF PRIORITY OF THIS RIGHT.

POINT OF DIVERSION: T39N R02E S11 NWNWNE (Instream Beginning Point) Within Clearwater County  
S14 NWSWNE (Instream Ending Point)

THIS MINIMUM STREAM FLOW BEGINS AT THE NORTH SECTION LINE IN THE  
NW1/4NW1/4NE1/4 OF SECTION 11, TWP 39N, RGE 02E, B.M., AND ENDS  
AT THE CONFLUENCE OF DEEP CREEK WITH ELK CREEK IN THE NW 1/4  
SW 1/4 NE 1/4 OF SECTION 14, TWP 39N, RGE 02E, B.M., CLEARWATER  
COUNTY.

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Minimum Stream Flow	07-01 TO 02-29	40.00 CFS
	Minimum Stream Flow	03-01 TO 06-30	120.00 CFS

THE PURPOSE OF THIS MINIMUM STREAM FLOW IS TO PRESERVE SCENIC  
AND RECREATIONAL PURPOSES, AND TO PROVIDE FLUSHING FLOWS FOR  
RECRUITMENT OF SPAWNING GRAVELS AND SEDIMENT REMOVAL FOR FISH  
HABITAT NEEDS.  
USE OF WATER UNDER THIS RIGHT SHALL BE NON-CONSUMPTIVE.

PLACE OF USE:

MINIMUM STREAM FLOW WITHIN CLEARWATER COUNTY  
THE PLACE OF USE OF THE MINIMUM STREAM FLOW WATER RIGHT IS  
STREAM REACH FROM THE BEGINNING POINT TO THE ENDING POINT  
IDENTIFIED ABOVE.

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

UPON THE FUTURE FINDING AND ORDER OF THE DIRECTOR THAT  
GAUGING STATIONS ARE REQUIRED TO MAINTAIN THE APPROVED MINIMUM  
STREAM FLOW, THE RIGHT HOLDER SHALL PERMANENTLY INSTALL AND  
MAINTAIN GAUGING STATIONS AS SPECIFIED BY THE DEPARTMENT.  
THE IDAHO WATER RESOURCE BOARD, UPON RECEIVING A REQUEST, OR  
UPON ITS OWN INITIATIVE, MAY PETITION THE DIRECTOR FOR AN  
AMENDMENT TO THE RIGHT. THE PETITION MUST SET FORTH ANY  
SIGNIFICANT CHANGE IN CIRCUMSTANCES AND EVIDENCE OF THE PUBLIC  
INTEREST SUPPORTING THE PROPOSED AMENDMENT. THE DIRECTOR WILL  
NOTIFY THE GENERAL PUBLIC AND SPECIFIC PERSONS OR KNOWN

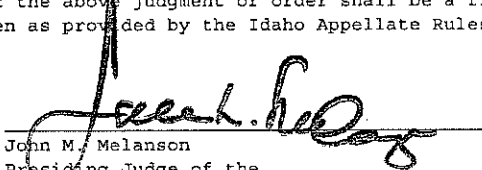
OTHER PROVISIONS (continued)

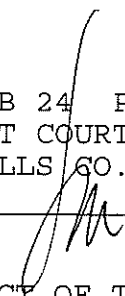
INTERESTED PARTIES OF THE PROPOSED CHANGE, AND CONDUCT A HEARING FOR THE PURPOSE OF DETERMINING WHETHER THE WATER RIGHT SHOULD BE AMENDED IN THE PUBLIC INTEREST. THE BURDEN OF PROOF AT THE HEARING SHALL BE UPON THE PERSONS OR PARTIES SEEKING THE AMENDMENT TO ESTABLISH THAT THE AMENDMENT OF THE RIGHT WOULD BE IN THE PUBLIC INTEREST.

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 FEB 24 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): 83-07099

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 83-07099 was mailed  
on February 24, 2005, with sufficient first-class postage prepaid  
to the following:

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

STATE OF IDAHO  
IDAHO WATER RESOURCE BOARD  
STATEHOUSE MAIL  
PO BOX 83720  
BOISE, ID 83720-0098  
Phone: 208-327-7900

JULIE MURPHY  
Chief Deputy Clerk

