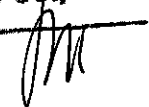


2004 OCT 29 PM 4:46
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED 

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
	)	
Case No. 39576	)	For Water Right: 63-05334
	)	
_____	)	

On September 24, 2004, a *Special Master's Report and Recommendation* was filed for water right 63-05334. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report and Recommendation* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 63-05334 be **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED October 29, 2004.



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 63-05334

2004 OCT 29 PM 4:46
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED *jm*

NAME AND ADDRESS: OSPREY LAND CO
737 N 7TH ST
BOISE, ID 83702

SOURCE: MINNEHA CREEK TRIBUTARY: MORES CREEK
MORES CREEK TRIBUTARY: BOISE RIVER

QUANTITY: 1.94 CFS
221.60 AFY

DIVERSION FROM MORES CREEK UNDER THIS RIGHT IS LIMITED TO THOSE
TIMES WATER IS AVAILABLE FOR DIVERSION UNDER THIS RIGHT AND
PRIORITY FROM MINNEHA CREEK. AVAILABILITY OF WATER FROM
MINNEHA CREEK SHALL BE DETERMINED BASED ON THE LESSER OF THE FLOW
IN MINNEHA CREEK AT THE AUTHORIZED POINT OF DIVERSION OR AT THE
MOUTH OF MINNEHA CREEK. THE TOTAL INSTANTANEOUS DIVERSION OF
WATER FROM ALL POINTS OF DIVERSION UNDER THIS RIGHT SHALL NOT
EXCEED 1.94 CFS.

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL
NOT EXCEED 13,000 GALLONS PER DAY.

THIS RIGHT WHEN COMBINED WITH ALL OTHER RIGHTS SHALL PROVIDE NO
MORE THAN 0.02 CRFS PER ACRE NOR MORE THAN 4.5 AFA PER ACRE AT
THE FIELD HEADGATE FOR IRRIGATION OF THE LANDS ABOVE.

THE TOTAL INSTANTANEOUS DIVERSION OF WATER FROM ALL POINTS OF
DIVERSION UNDER RIGHTS 63-5332 AND 63-5334 SHALL NOT EXCEED 2.14
CFS, NOR TOTAL COMBINED ANNUAL VOLUME OF 266.6 AF.

THE PORTION OF RIGHT 63-5334 USED FOR CONVEYANCE LOSSES LIMITED
TO DIVERSION FROM MINNEHA CREEK IS 1.02 CFS.

PRIORITY DATE: 08/15/1889

POINT OF DIVERSION: T05N R04E S35 NWNESE Within Boise County
S36 NWSE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	1.94 CFS 207.00 AFY
	Stockwater	01-01 TO 12-31	0.03 CFS 14.60 AFY

DIVERSION FOR IRRIGATION UNDER THIS WATER RIGHT PRIOR TO
APRIL 1 AND AFTER OCTOBER 31 SHALL OCCUR ONLY AS AUTHORIZED BY
THE WATER DISTRICT 63 WATERMASTER AND ONLY WHEN WATER IS BEING
RELEASED FOR FLOOD CONTROL BY THE UNITED STATES FROM THE LUCKY
PEAK DAM OUTLET UNDER PROCEDURES AND REQUIREMENTS FOR THE
MEMORANDUM OF AGREEMENT BETWEEN THE U.S. DEPARTMENT OF THE ARMY
AND THE U.S. DEPARTMENT OF THE INTERIOR FOR FLOOD CONTROL
OPERATIONS OF THE BOISE RIVER RESERVOIRS DATED NOVEMBER 20, 1953,
THE WATER CONTROL MANUAL FOR BOISE RIVER RESERVOIR DATED APRIL
1985 AND ANY FUTURE AMENDMENTS OR REVISIONS MADE THERETO PURSUANT
TO STATE OR FEDERAL PROCEDURES OR LAW; PROVIDED THAT ANY SUCH
USE OF THIS WATER RIGHT PRIOR TO APRIL 1 AND AFTER OCTOBER 31
SHALL BE SUBORDINATED TO WATER RIGHTS FOR STORAGE IN LUCKY PEAK
RESERVOIR AND/OR LAKE LOWELL AS DECREED IN SRBA CASE NO. 39576.

THE PERIOD OF USE FOR THE IRRIGATION DESCRIBED IN THIS
APPROVAL MAY BE EXTENDED TO A BEGINNING DATE OF 3/1 AND AN
ENDING DATE OF 11/15 PROVIDED THAT BENEFICIAL USE OF THE WATER
CAN BE SHOWN AND OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED.

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

PURPOSE AND PERIOD OF USE (continued)

THE USE OF WATER BEFORE 5/1 AND AFTER 10/1 IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE OF THIS APPROVAL.

PLACE OF USE:

Irrigation		Within Boise County
T04N R04E S02 LOT 2	(NWNE) 10.0	SWNE 10.0
	SENE 4.0	LOT 3 (NENW) 10.0
T05N R04E S35	NWSW 5.0	SWSW 15.0
	SESW 5.0	SWSE 1.0
60.0 Acres Total		

Stockwater	Within Boise County
Same as Irrigation	

USE OF THIS RIGHT WITH RIGHT NO 63-5332 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 56 ACRES IN A SINGLE IRRIGATION SEASON.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 46 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

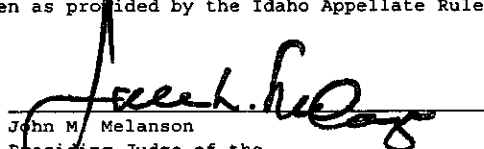
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE 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

2004 OCT 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): 63-05334

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 63-05334 was mailed
on October 29, 2004, with sufficient first-class postage prepaid
to the following:

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

BOISE PROJECT BOARD OF CONTROL
Represented by:
ALBERT P. BARKER
205 N 10TH ST, STE 520
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

OSPREY LAND CO
Represented by:
BARRY L MARCUS
737 N 7TH STREET
BOISE, ID 83702
Phone: 208-342-3563

CERTIFICATE OF MAILING

PAGE 1
10/29/04

BOISE PROJECT BOARD OF CONTROL

Represented by:

CHESTNUT, AMY D

205 N 10TH ST, STE 520

PO BOX 2139

BOISE, ID 83701-2139

Phone: 208-336-0700

UNITED STATES OF AMERICA

Represented by:

US DEPARTMENT OF JUSTICE

ENVIRONMENT & NATL' RESOURCES

550 WEST FORT STREET, MSC 033

BOISE, ID 83724

JULIE MURPHY

Chief Deputy Clerk