

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

Case No. 39576

) ORDER OF PARTIAL DECREE

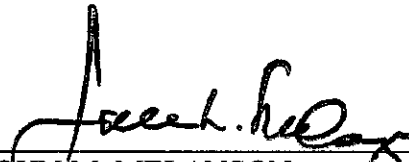
) For Water Right: 63-05332

On September 24, 2004, a *Special Master's Report and Recommendation* was filed for water right 63-05332. 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 63-05332 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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 63-05332

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DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO
FILED *jm*

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

SOURCE: CORRAL CREEK TRIBUTARY: MORES CREEK
MORES CREEK TRIBUTARY: BOISE RIVER

QUANTITY: 0.20 CFS
59.60 AFY

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

DIVERSION FROM MORES CREEK UNDER THIS RIGHT IS LIMITED TO THOSE
TIMES WATER IS AVAILABLE FOR DIVERSION UNDER THIS RIGHT AND
PRIORITY FROM CORRAL CREEK. AVAILABILITY OF WATER FROM CORRAL
CREEK SHALL BE DETERMINED BASED ON THE LESSER OF THE FLOW IN
CORRAL CREEK AT THE AUTHORIZED POINT OF DIVERSION OR AT THE
MOUTH OF CORRAL CREEK. THE TOTAL INSTANTANEOUS DIVERSION OF
WATER FROM ALL POINTS OF DIVERSION UNDER THIS RIGHT SHALL NOT
EXCEED 0.20 CFS.

THE TOTAL DIVERSION OF WATER FROM MORES CREEK UNDER RIGHTS
63-5332 AND 63-5334 SHALL NOT EXCEED 1.12 CFS.

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

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.

PRIORITY DATE: 07/23/1900

POINT OF DIVERSION: T04N R04E S02 SENE Within Boise County
T05N R04E S35 NWNESW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	0.10 CFS 45.00 AFY
	Stockwater	01-01 TO 12-31	0.10 CFS 14.60 AFY

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.
THE USE OF WATER BEFORE 4/1 AND AFTER 11/1 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.
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

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

PURPOSE AND PERIOD OF USE (continued)

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.

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. 63-5334 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 10 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

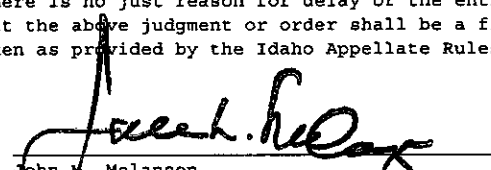
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

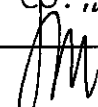
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

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

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 63-05332

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 63-05332 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

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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