

AUG 20 2004

DEPARTMENT OF
WATER RESOURCES

2004 AUG 19 AM 8:57

TWIN FALLS 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

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ORDER OF AMENDED PARTIAL
DECREE

For Water Right: 27-11759

PROCEDURAL BACKGROUND

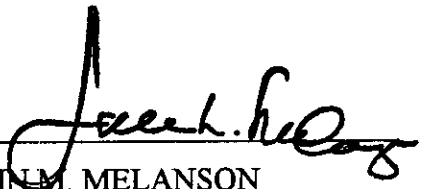
On December 11, 2003, a trial was held before Special Master Thomas Cushman pursuant to Idaho Code 1411A(12), which requires the United States to demonstrate a *prima facie* showing of the existence of a claimed federal reserve water right pursuant to Public Water Reserve 107. In conjunction with that trial, the United States filed affidavits, which were admitted into evidence, for the claimed right to meet its burden. The *Affidavit of Fredric W. Price* was filed on November 17, 2003, and contained language to the effect that the Point of Diversion and Place of Use for the above right would be more accurately described with the addition of lot numbers. On March 4, 2004, Special Master Thomas Cushman issued a *Special Master's Report and Recommendation* for the above right, finding, based on the affidavit and hearing, that the United States had met its burden for a federal reserve water right pursuant to PWR 107. The *Recommendation* contained no lot descriptions in either the Point of Diversion or Place of Use. Pursuant to the Special Master's *Report and Recommendation* and I.R.C.P. 53(e)(2), the SRBA Court issued a *Partial Decree* for the above right on May 4, 2004. As in the *Recommendation*, the *Partial Decree* did not reflect the lot descriptions for the Point of Diversion or Place of Use.

On June 15, 2004, the Court received correspondence from Scott Beazer of the United States (Bureau of Land Management) stating that the *Recommendation* and the *Partial Decree* should have contained the lot descriptions in the Point of Diversion and Place of Use legal descriptions. The correspondence was treated as a *Motion to Amend Partial Decree*. The Court issued a *Notice of Court's Intent to Amend Partial Decree* on June 17, 2004, and a hearing was held on August 17, 2004. No one appeared to oppose the *Motion*.

CONCLUSION

The Court finds that the exclusion of the lot numbers from the Point of Diversion and the Place of Use was a clerical error. Therefore, IT IS ORDERED, that water right 27-11759 is hereby **amended and decreed** as set forth in the attached *Amended Partial Decree* pursuant to I.R.C.P. 60(a).

Dated August 19, 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

AMENDED

In Re SRBA)
Case No. 39576)
_____)

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

Water Right 27-11759

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FILED
TWIN FALLS CO., IDAHO
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NAME AND ADDRESS: USDI BLM
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657

SOURCE: SPRING TRIBUTARY: SINKS

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 04/17/1926

4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT.
THIS WATER RIGHT IS CLAIMED BASED ON FEDERAL LAW WITH AN
APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN EXECUTIVE ORDER
SIGNED THE SAME DATE AND KNOWN AS PUBLIC WATER RESERVE 107.

POINT OF DIVERSION: T06S R43E S31 LOT 2 (NWSWN) Within Caribou County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Stockwater Within Caribou County
T06S R43E S31 LOT 2 (SWNW)

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT 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
John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF AMENDED PARTIAL DECREE was mailed on August 19, 2004, with sufficient first-class postage to the following:

STATE OF IDAHO

Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

USDI BLM

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
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Julie Murphy