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DEPARTMENT OF WATER RESOURCES
2004 AUG -3 AM 10: 47
CLERK 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	)	**SUBCASES: 65-04486B and 65-04983**
	)	
	)	
	)	
	)	

On June 22, 2004, a ***Special Master's Report and Recommendation*** was filed for the above-captioned water rights. 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 wholly adopts them as its own.

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

DATED August 3, 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

2004 AUG -3 AM 10: 47

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

In Re SRBA	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 65-04983

NAME AND ADDRESS: JG SCHWARZ
KRISTIN SCHWARZ
6000 BIG WILLOW RD
PAYETTE, ID 83661

SOURCE: BIG WILLOW CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 2.08 CFS
4.00 AFY

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

THIS RIGHT WHEN COMBINED WITH RIGHT 65-04982 SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE WHEN MEASURED AT THE FIELD HEADGATE.

PRIORITY DATE: 05/24/1900

POINT OF DIVERSION: T08N R03W S17 NWSE Within Payette County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Stockwater	01-01 TO 12-31	0.05 CFS
		4.00 AFY
Irrigation	03-15 TO 11-15	2.08 CFS
		4.00 AFY

PLACE OF USE:

Irrigation — Within Payette County

T08N R03W S19	SWNE 3.4	NENW 2.1
	SWNW 6.0	SENW 14.0
	NESW 19.0	
R04W S24	SWNE 0.2	SENE 12.0
	NESE 21.0	NWSE 6.3

84.0 Acres Total

Stockwater — Within Payette County

T08N R03W S19	SWNE	NENW
	SWNW	SENW
	NESW	
R04W S24	SWNE	SENE
	NESE	NWSE

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.

BASIN 65 GENERAL PROVISIONS NO. 3, THE SEPARATE STREAMS GENERAL PROVISION, DOES NOT APPLY TO APPROPRIATIONS OF WATER AFTER OCTOBER 18, 1977.

THIS WATER RIGHT SHALL BE ADMINISTERED AS BEING FROM A SEPARATE SOURCE PURSUANT TO BASIN 65 GENERAL PROVISION NO. 3. IF THE HOLDER OF THIS RIGHT SEEKS TO CHANGE THE RIGHT PURSUANT TO IDAHO CODE SECTION 42-222 OR SUCCESSOR STATUTE, NOTHING IN THIS GENERAL PROVISION SHALL PRECLUDE ANY OTHER PERSON FROM DEMONSTRATING THAT SUCH CHANGE IN USE WOULD CAUSE INJURY TO ITS WATER RIGHT OR FROM RECEIVING ANY RELIEF PROVIDED BY LAW IN THE EVENT OF INJURY.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS

OTHER PROVISIONS (continued)

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

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF PARTIAL DECREE was mailed on August 03, 2004, with sufficient first-class postage to the following:

UNITED STATES OF AMERICA
Represented by:
DAVID W GEHLERT
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATRUAL RESOURCE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

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

JG SCHWARZ
KRISTIN SCHWARZ
6000 BIG WILLOW RD
PAYETTE, ID 83661
Phone: 208-278-3898

FILE COPY FOR 00907

Julie Murphy
Deputy Clerk