

77th AUG -3 AM 10:47
DISTRICT OF COLUMBIA
FBI - WASH DC, IDAHO
FILED *M*

In Re SRBA
Case No. 39576

ORDER OF PARTIAL DECREE
-
SUBCASES: SEE ATTACHED
EXHIBIT A (LIST - FILE 795)

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

EXHIBIT A

Subcase Nos:

65-02204
65-02500
65-02501
65-02601
65-03125
65-03126
65-03127
65-03128
65-03247
65-03248
65-07136
65-07603
65-07789
65-09076
65-10533
65-10534
65-10535
65-10536

(Subcase list: FILE 795)
8/03/04

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 65-10535

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

SOURCE: BIG WILLOW CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.84 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.02 CFS AND TO A TOTAL
COMBINED ANNUAL DIVERSION VOLUME OF 3.5 AF PER ACRE AT THE FIELD
HEADGATE. COMBINED RIGHT NOS.: 65-02204, 65-03247, 65-03248,
65-02500, 65-02501, 65-03125, 65-03126, 65-03127, 65-03128,
65-07789, 65-09076, 65-10533, 65-10534, 65-10536, 65-02601,
65-07603, 65-07136.

PRIORITY DATE: 05/02/1890

POINT OF DIVERSION: T08N R02W S09 NENW Within Payette County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Irrigation 03-15 TO 11-15 0.84 CFS

PLACE OF USE: Irrigation Within Payette County
T08N R02W S02 SWNE 17.0 SWNW 4.0
SENE 10.0 NESW 14.0
NWSW 28.0 NWSE 3.0
S03 SENE 12.0 LOT 4 (NWNW) 4.0
NESW 15.0 SWSW 32.0
SESW 36.0 NESE 33.0
NWSE 37.0 SWSE 24.0
SESE 8.0
S04 SWNE 2.0 SENE 24.0
NESW 22.0 NWSW 23.0
SWSW 38.0 SESW 38.0
NESE 7.0 NWSE 23.0
SWSE 21.0 SESE 15.0
S05 SWSW 18.0 SESW 21.0
SWSE 27.0 SESE 36.0
S07 NENE 19.0 SWNE 5.0
S08 NENE 4.0 NWNE 10.0
NENW 11.0 NWNW 31.0
S09 NENE 3.0 NENW 4.0
NWNW 1.0
S10 NWNE 24.0 SWNE 2.0
NENW 25.0 NWNW 30.0
SWNW 19.0 SENW 24.0
T09N R02W S34 SWNW 12.0 NWSW 14.0
SWSW 10.0
840.0 Acres Total

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 929 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-02204, 65-03247,
65-03248, 65-02500, 65-02501, 65-03125, 65-03126, 65-03127,
65-03128, 65-07789, 65-09076, 65-10533, 65-10534, 65-10536,

PLACE OF USE (continued)

65-02601, 65-07603, 65-07136.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 72 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

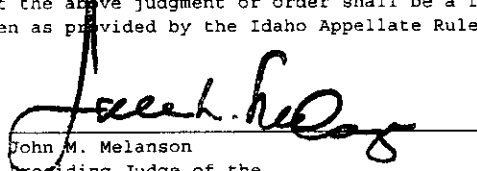
BASIN 65 GENERAL PROVISIONS NO. 3, THE SEPARATE STREAMS
GENERAL PROVISION, DOES NOT APPLY TO APPROPRIATIONS OF WATER
AFTER OCTOBER 18, 1977.

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
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 & NATURAL RESOURCE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

JG SCHWARZ

KRISTIN SCHWARZ

Represented by:
SCOTT L. CAMPBELL
101 S CAPITOL BLVD, 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829
Phone: 208-345-2000

UNITED STATES OF AMERICA

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

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

A handwritten signature in cursive script, reading "Julie Murphy", is written over a horizontal line.