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DEPARTMENT OF  
WATER RESOURCES

2004 JUL 30 PM 4:32  
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: 63-09642 |
|                | ) |                           |
|                | ) |                           |

On June 23, 2004, a *Special Master's Report and Recommendation* was filed for water right 63-09642. 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 63-09642 be **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED July 30, 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 63-09642

2004 JUL 30 / PM 4:32  
DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED *[Signature]*

NAME AND ADDRESS: MIDDLE FORK ASSOC  
C/O GREG AUCH  
11477 HIGHLANDER RD  
BOISE, ID 83709

SOURCE: GROUND WATER TRIBUTARY: MIDDLE FORK BOISE RIVER  
PHIFER CREEK TRIBUTARY: MIDDLE FORK BOISE RIVER

QUANTITY: 0.44 CFS  
77.60 APY

PRIORITY DATE: 11/06/1980

POINT OF DIVERSION: T06N R09E S35 SWNE Within Elmore County  
S36 SWSW

| PURPOSE AND PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY  |
|----------------------------|----------------|----------------|-----------|
| Mining                     |                | 04-01 TO 11-01 | 0.44 CFS  |
|                            |                |                | 77.60 APY |

| PLACE OF USE:       | Mining | Within Elmore County |
|---------------------|--------|----------------------|
| T05N R09E S02 LOT 4 | (NWNW) |                      |
| T06N R09E S35       | SWNE   | SENE                 |
|                     | SENE   | NESW                 |
|                     | NESE   | NWSE                 |
|                     | SWSE   | SESE                 |
| S36                 | SWNE   | SNNW                 |
|                     | SENE   | NESW                 |
|                     | NWSW   |                      |

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

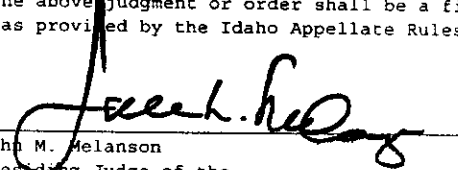
The points of diversion and places of use for this water right are on National Forest System land, further the places of use are on unpatented placer mining claims known as Wishful No. 1, Wishful No. 2, and Wishful No. 3.

This water right is only for use on the mining claims listed above for mining purposes authorized under state and federal law.

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 JUL 30 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): 63-09642

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 63-09642 was mailed  
on July 30, 2004, with sufficient first-class postage prepaid  
to the following:

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

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

MIDDLE FORK ASSOC  
Represented by:  
RICHARD D. HIMBERGER  
380 E PARKCENTER BLVD STE 100  
BOISE, ID 83706  
Phone: 208-336-8442

JULIE MURPHY  
Chief Deputy Clerk

CERTIFICATE OF MAILING

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07/30/04