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Department of Water Resources

2004 JUL 23 AM 11: 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 AMENDED PARTIAL DECREE;
I.R.C.P. 60(a)**

For Water Rights 65-22859 and 65-22860

On June 7, 2004, this Court issued a *Notice of Intent to Issue Amended Partial Decrees*. Hearing was held July 20, 2004. No objections were raised to the *Court's Notice of Intent*.

Therefore, IT IS ORDERED that water rights 65-22859 and 65-22860 are hereby **decreed** as set forth in the attached *Amended Partial Decrees Pursuant to I.R.C.P. 54(b)*. The previously issued *Partial Decrees* are replaced and superseded thereby.

DATED July 23, 2004.

Jacob Henry

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 65-22859

2004 JUL 23 AM 11:46

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: ELVIN C SCHMELZER
HC 78 BOX 3839
OLA, ID 83657

BETTY LUE SCHMELZER
5315 MONTGOMERY RD
EMMETT, ID 83617

SOURCE: SQUAW CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.02 CFS

THIS RIGHT WHEN COMBINED WITH RIGHT NOS. 65-3099 AND
65-22860 SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE.

PRIORITY DATE: 05/09/1967

POINT OF DIVERSION: T09N R01E S03 SWSE Within Gem County
SESE
S10 SWNE
NENE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	0.02 CFS

PLACE OF USE: Irrigation Within Gem County
T09N R01E S10 SENE 2.0
2.0 Acres Total

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

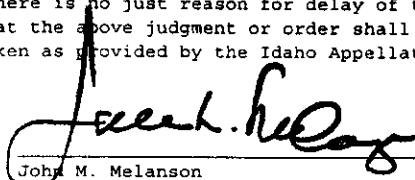
Basin 65 General Provisions No. 3, the Separate Streams
General Provision, does not apply to appropriations of water
after October 18, 1977.

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 or entity
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

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 65-22860

2004 JUL 23 AM 11:46

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: WESTERN RANCH EQUITIES LLC
20 WALDEN CT
YORK, PA 17404

SOURCE: SQUAW CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.81 CFS

THIS RIGHT WHEN COMBINED WITH RIGHT NOS. 65-3099 AND
65-22859 SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE.

PRIORITY DATE: 05/09/1967

POINT OF DIVERSION: T09N R01E S03 SWSE Within Gem County
SESE
S10 SWNE
NENE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	0.81 CFS

PLACE OF USE:	Irrigation	Within Gem County
	T09N R01E S03	NWSE 1.0 SESE 22.0 SWSE 5.0
	S10	NENE 29.0 NWNE 6.0 SWNE 2.0
	S11	NWNW 16.0
	81.0 Acres Total	

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

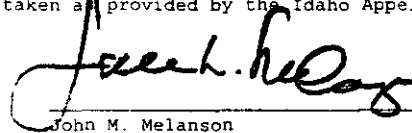
Basin 65 General Provisions No. 3, the Separate Streams
General Provision, does not apply to appropriations of water
after October 18, 1977.

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 or entity
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.

A handwritten signature in black ink, appearing to read "John M. Melanson", is written over a horizontal line.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

2004 JUL 22 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): 65-22859

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 65-22859 was mailed
on July 22, 2004, with sufficient first-class postage prepaid
to the following:

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

ELVIN C SCHMELZER
HC 78 BOX 3839
OLA, ID 83657

BETTY LUE SCHMELZER
5315 MONTOUR RD
EMMETT, ID 83617

DIANA DELANEY
Chief Deputy Clerk

CERTIFICATE OF MAILING

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07/22/04

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STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
)
Case No. 39576)

)

CERTIFICATE OF MAILING

Water Right(s): 65-22860

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 65-22860 was mailed
on July 22, 2004, with sufficient first-class postage prepaid
to the following:

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

WESTERN RANCH EQUITIES LLC
20 WALDEN CT
YORK, PA 17404

DIANA DELANEY
Chief Deputy Clerk