

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)**
) **And ORDER DISALLOWING WATER**
) **RIGHT**
)
) **For water rights: 57-02484, 57-11246**

The above-captioned water rights were claimed by the United States acting through the United States Department of Interior, Bureau of Land Management. A *Partial Decree* was previously issued for water right 57-02484 on November 26, 1997. Water right 57-02484 is based on a state-issued license for a "stockwater" and wildlife" purpose of use with a 1966 priority date. On February 14, 2003, the United States filed a *Motion to Reopen Partial Decree* in 57-07230, seeking to have the *Partial Decree* amended to correct an inaccurate legal description of the source and to have "stockwater" removed as a purpose of use. The stated purpose of removing "stockwater" is to attempt to conform to the pending PWR 107 claim with the decreed state-law based right.

Water right 57-11246 is a federal reserved water right claim to the same spring source based on Public Water Reserve (PWR) 107. The two claims essentially comprise a "dual-based" water right claim which is a claim to the same source based on both the state-law beneficial use and on a federal reservation.

On March 31, 2004, a *Special Master's Report and Recommendation* was filed for the above water rights. The *Special Master's Report* stated that if the United States elected to have the federal basis decreed in lieu of the state basis, that the matter could be addressed on a *Motion to Alter or Amend*. On April 19, 2004, an *Order Issuing Recommendation For Special Master's Report* was filed, as the *Recommendation* was not attached to the previously issued *Master's Report*. The United States did not file a

Motion to Alter or Amend. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

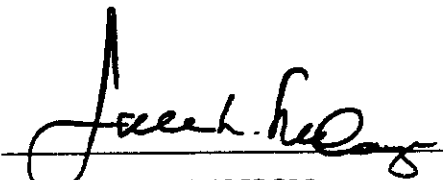
Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that the *Motion to Reopen Partial Decree* for water right 57-02484 is **Granted** to amend the Partial Decree to correct the legal description for the source but not to amend the purpose of use. IT IS FURTHER ORDERED that water right 57-02484 is hereby **Amended and Decreed** as set forth in the attached *Amended Partial Decree Pursuant to I.R.C.P. 60(a)*. IT IS FURTHER ORDERED that water right 57-11246 is **disallowed** with prejudice based on the "dual-based" nature of the right and shall not be confirmed in any final uniform decree entered In Re SRBA Case No. 39576 in whatever form that decree may take or be styled.

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.

Dated June 10, 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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 57-02484

2004 JUN 10 PM 4:34
FILED
TWIN FALLS, IDAHO
SRBA

NAME AND ADDRESS: USDI BLM
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657

SOURCE: SPRING TRIBUTARY: SINKS

QUANTITY: 0.10 CFS

PRIORITY DATE: 06/06/1966

POINT OF DIVERSION: T01S R04W S23 NENW Within Owyhee County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.10 CFS
	Wildlife	01-01 TO 12-31	0.10 CFS

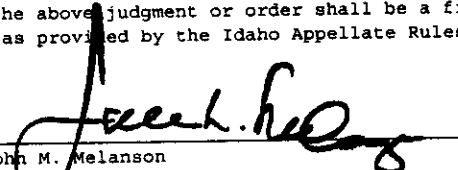
PLACE OF USE:			
Stockwater			Within Owyhee County
T01S R04W S23	NENW		
Wildlife			Within Owyhee County
T01S R04W S23	NENW		

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

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 AMENDED PARTIAL DECREE was mailed on June 10, 2004, with sufficient first-class postage to the following:

STATE OF IDAHO

Represented by:

CLIVE STRONG

NATURAL RESOURCES

DEP AG OFFICE OF ATTY GEN

STATEHOUSE MAIL

BOISE, ID 83720-0010

Phone: 208-334-2400

USDI BLM

Represented by:

US DEPARTMENT OF JUSTICE

ENVIRONMENT & NATL' RESOURCES

550 WEST FORT STREET, MSC 033

BOISE, ID 83724

RICHARD BASS

HC 88 BOX 1050

MURPHY, ID 83650

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

ORDER

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Deputy Clerk

A handwritten signature in cursive script, reading "Julie Murphy", is written over a horizontal line. The signature is in dark ink and is positioned to the right of the printed text "Deputy Clerk".