

2004 JUN -2 AM 11:46  
TWIN FALLS DIST-SRBA  
FILED  
J.M.

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: 65-02422 |
|                | ) |                           |
| _____          | ) |                           |

On April 8, 2004, a *Special Master's Report and Recommendation* was filed for water right 65-02422. 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 65-20422 be **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED June 2, 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 65-02422

2001 JUN -2, AM 11:46

FILED - SRBA  
TWIN FALLS CO., IDAHO  
FILED *jm*

NAME AND ADDRESS: JAMES A MITCHELL  
8777 VAN DEUSEN RD  
EMMETT, ID 83617

SOURCE: SUCKER CREEK TRIBUTARY: BIG WILLOW CREEK

QUANTITY: 1.00 CFS

PRIORITY DATE: 08/16/1941

POINT OF DIVERSION: T08N R01W S08 SWSW Within Gem County

PURPOSE AND  
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
Irrigation 03-15 TO 11-15 1.00 CFS

PLACE OF USE: Irrigation Within Gem County  
T08N R01W S18 SENW 18.3 NESW 23.7  
SESW 12.5 SWSE 0.5  
55.0 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*  
John M. Melanson  
Presiding Judge of the  
Snake River Basin Adjudication

2004 JUN 02 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): 65-02422

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 65-02422 was mailed  
on June 02, 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 W GEHLERT  
US DEPARTMENT OF JUSTICE  
ENVIRONMENT & NATURAL RESOURCE  
550 WEST FORT STREET, MSC 033  
BOISE, ID 83724

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

JAMES A MITCHELL  
8777 VAN DEUSEN RD  
EMMETT, ID 83617  
Phone: 208-365-2831

CERTIFICATE OF MAILING

JULIE MURPHY  
Chief Deputy Clerk

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06/02/04