

2004 JUN -7 PM 3:30
FILED
IDAHO

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: 65-11247
	)	
	)	

On April 12, 2004, a *Special Master's Report and Recommendation* was filed for water right 65-11247. 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 65-11247 be **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED June 7, 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 65-11247

2004 JUN -7 PM 3:30
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED *Am*

NAME AND ADDRESS: THOMAS F PENCE JR
5433 BIG WILLOW RD
PAYETTE, ID 83661

SOURCE: BIG WILLOW CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 4.60 CFS
24.70 AFY

THIS RIGHT WHEN COMBINED WITH RIGHT NOS. 65-02019, 65-02620 &
65-11212 SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE WHEN
MEASURED AT THE FIELD HEADGATE.

PRIORITY DATE: 12/10/1892

POINT OF DIVERSION: T08N R04W S25 NWN Within Payette County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.39 CFS 24.70 AFY
	Irrigation	03-15 TO 11-15	4.60 CFS

PLACE OF USE: Irrigation Within Payette County

T08N R04W S26	SWNE 29.0	SENE 2.4
LOT 5 (SWNW) 14.0	LOT 5 (SENE) 23.0	
LOT 3 (NESW) 38.0	LOT 4 (NWSW) 6.7	
LOT 3 (SESW) 8.9	LOT 1 (NESE) 6.0	
LOT 2 (NWSE) 40.0	LOT 2 (SWSE) 27.0	
195.0 Acres Total		

Stockwater	SWNE	SENE
T08N R04W S26		
LOT 5 (SWNW)	LOT 5 (SENE)	
LOT 3 (NESW)	LOT 4 (NWSW)	
LOT 3 (SESW)	LOT 1 (NESE)	
LOT 2 (NWSE)	LOT 2 (SWSE)	

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 279.0 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-02019, 65-02620 &
65-11212.

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

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

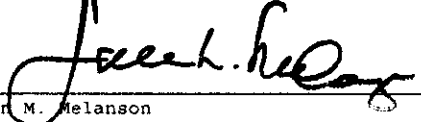
OTHER PROVISIONS (continued)

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

2004 JUN 07 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): 65-11247

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 65-11247 was mailed
on June 07, 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 & NATRUAL RESOURCE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

THOMAS F PENCE JR
5433 BIG WILLOW RD
PAYETTE, ID 83661
Phone: 208-278-5472

JULIE MURPHY
Chief Deputy Clerk