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Department of Water Resources

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

2004 MAR 23 PM 3 47

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

)

) For Water Rights: 29-13364, 29-13365, and
) 29-4177B

Case No. 39576

)

) ORDER DISALLOWING WATER RIGHT
) 29-4177A

I.

PROCEDURAL BACKGROUND

A. The above-captioned water rights were originally subject to Bannock County Case *Lundberg v. Collins*, Civil Case No. 40779A, which was subsequently incorporated into the SRBA.

B. The parties to *Lundberg v. Collins* entered into a Stipulation for Entry of Partial Final Decree resolving all issues on July 7, 1993. On August 6, 1993, the SRBA District Court issued an *Order Dismissing Amended Complaint, Counterclaim and Crossclaim and Order Requiring Submission of Partial Final Decree*.

C. Water right claim 28-4177A was subsequently administratively split into water rights 29-13364 and 29-13365.

D. On July 11, 2003, the Director of the Idaho Department of Water Resource filed with the SRBA District Court the *Director's Report for Irrigation and Other Uses, Reporting Area 9, IDWR Basin 29*, which included a recommendation for the above-captioned rights based on the stipulation and subsequent *Order* entered in *Lundberg*. The purpose of the recommendation was to allow for objections by parties to the adjudication not previously parties to *Lundberg*.

E. No objections were filed to the recommendations and the time for filing objections has expired.

F. On March 16, 2004, the SRBA District Court held a hearing on the uncontested portions of the *Director's Report for Irrigation and Other Uses, Reporting Area 9, IDWR Basin 29*, in accordance with I.C. § 42-1412. No party appeared in opposition nor did IDWR indicate that the unobjected-to rights may be affected by a contested matter.

II. ORDER

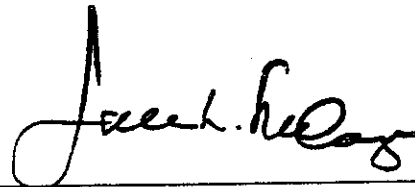
THEREFORE, IT IS ORDERED that water rights 29-13364, 29-13365, and 29-4177B be decreed with the elements as set forth in the attached *Partial Decrees Pursuant to IRCP 54(b)*.

IT IS FURTHER ORDERED AND ADJUDGED that water right claim 29-4177A is hereby **disallowed with prejudice** and shall not be confirmed in any partial decree on in any final unified decree entered in SRBA Case No. 39576, in whatever form or style that final decree may take.

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 March 23, 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
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 29-04177B

FILED
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NAME AND ADDRESS: CHERI LEONARD BAKER
520 FAIRWAY DR
POCATELLO, ID 83201-2012

SOURCE: SPRING TRIBUTARY: SINKS

QUANTITY: 0.22 CFS

THE DIVERSION RATE OF THIS RIGHT IS BASED ON THE MAXIMUM
MEASURED NATURAL FLOW FROM THE SPRING. THE FLOW IN THE CHANNEL
BETWEEN THE SPRING AND THE POINT OF REDIVERSION IS AT TIMES
AUGMENTED BY WATER FROM OTHER SOURCES; AT SUCH TIMES THE
ADDITIONAL FLOWS MAY BE STORED IN THE POND.
USE OF THIS RIGHT WITH RIGHT NO. 29-13364 & 29-13365 IS LIMITED
TO A TOTAL COMBINED DIVERSION RATE OF 0.22 CFS.

PRIORITY DATE: 03/01/1967

POINT OF DIVERSION: T07S R34E S01 NESESW Within Bannock County
NWSWSE (Rediversion)

SPRING FLOWS FROM SPRING BOX INTO UNNAMED STREAM AT POINT OF
DIVERSION IN NESESW, AND IS RE-DIVERTED FROM UNNAMED STREAM IN
NWSWSE, ALL IN S 1, T 07S, R 34E.

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Wildlife Storage	01-01 TO 12-31	3.00 AFY
	Diversion to Storage	01-01 TO 12-31	0.22 CFS

THE DIVERSION VOLUME OF THIS RIGHT IS BASED ON THE STORAGE
CAPACITY OF THE POND, BUT REFILLING OF THE POND IS PERMITTED.

PLACE OF USE: Wildlife Storage Within Bannock County
T07S R34E S01 SWSE

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).