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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

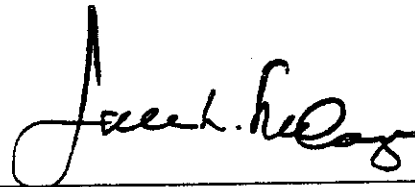
THEREFORE, IT IS ORDERED that water rights 29-13364, 29-13365, and 29-4177B be decreed with the elements as set forth in the attached *Partial Decrees Pursuant to IRCP 54(b)*.

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
FILED

2004 MAR 23 PM 3 47

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 29-13364

NAME AND ADDRESS: HARRIET LUNDBURG
KENNETH G LUNDBURG
3250 S BANNOCK HWY
POCATELLO, ID 83204

SOURCE: SPRING TRIBUTARY: SINKS

QUANTITY: 0.04 CFS

USE OF THIS RIGHT WITH RIGHT NO. 29-04177B & 29-13365 IS
LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.22 CFS.

PRIORITY DATE: 03/01/1910

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

THE SPRING FLOWS FROM A SPRING BOX INTO AN UNNAMED STREAM AT
THE POINT OF DIVERSION IN NESESW, AND IS RE-DIVERTED FROM THE
UNNAMED STREAM AT 2 POINTS IN NWSWSE, ALL IN S01, T07S, R34E.

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.04 CFS

PLACE OF USE: Irrigation Within Bannock County
T07S R34E S01 SWSE 2.2
2.2 Acres Total

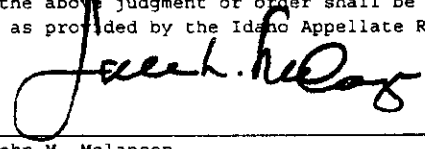
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

0.04 CFS OF THIS RIGHT IS USED, IN COMBINATION WITH WATER
SUPPLIED UNDER CONTRACT BY THE CITY OF POCATELLO, FOR THE
IRRIGATION OF 5 ACRES WITHIN THE PLACE OF USE LISTED ABOVE, AND
THE COMBINED DIVERSION RATE UNDER THIS RIGHT AND WATER SUPPLIED
FROM ALL OTHER SOURCES, INCLUDING THE CITY OF POCATELLO, SHALL
NOT EXCEED 0.04 CFS, FOR THIS 2 ACRES.

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