

RECEIVED

NOV 19 2002

Department of Water Resources

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

2002 NOV 18 PM 3 45

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

) Subcases: SEE ATTACHED EXHIBIT A
)
) ORDER OF PARTIAL DECREE FOR
) FEDERAL RESERVED WATER
) RIGHTS, AND
)
) ORDER DISALLOWING STATE LAW
) BASIS FOR SAME WATER RIGHTS
)

The above-captioned water rights were claimed by the United States Department of Interior, Bureau of Land Management as "dual based" water rights, meaning the water rights were claimed both pursuant to state law and as federal reserved water rights pursuant to Public Water Reserve (PWR) 107. On September 17, 2002, following a hearing held pursuant to Idaho Code section 42-1411A(14) regarding the factual basis for the federal reserved water right claims, a *Special Master's Report and Recommendation* together with *Findings of Fact and Conclusions of Law* was filed for the above-captioned water rights. The *Special Master's Report and Recommendation* recommended that the federal basis for the claims be decreed as recommended and that the state basis for the same claims be disallowed and not confirmed in any partial or final unified decree. 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.

ORDER OF PARTIAL DECREE FOR FEDERAL RESERVED WATER RIGHTS,
ORDER DISALLOWING STATE LAW BASIS FOR SAME WATER RIGHTS

Page 1 of 2

Therefore, IT IS ORDERED that the above-captioned water rights are hereby **decreed** as set forth in the attached *Partial Decree(s) Pursuant to I.R.C.P. 54(b)*.

IT IS FURTHER ORDERED that the state law basis for the same above-captioned water rights is hereby **disallowed** and shall not be confirmed in any partial decree or in any final unified decree entered in SRBA Case No. 39576, in whatever form that final decree may take or be styled.

Dated 11-18-02



ROGER BURDICK
Presiding Judge
Snake River Basin Adjudication

ORDER OF PARTIAL DECREE FOR FEDERAL RESERVED WATER RIGHTS,
ORDER DISALLOWING STATE LAW BASIS FOR SAME WATER RIGHTS

Page 2 of 2

EXHIBIT A

Subcase Nos:

21-12003	21-12115
21-12005	21-12117
21-12007	21-12119
21-12009	21-12121
21-12011	21-12123
21-12013	21-12125
21-12015	21-12127
21-12017	21-12129
21-12019	21-12131
21-12021	21-12133
21-12023	21-12135
21-12027	
21-12029	
21-12031	
21-12033	
21-12035	
21-12037	
21-12039	
21-12041	
21-12045	
21-12047	
21-12049	
21-12051	
21-12053	
21-12055	
21-12057	
21-12059	
21-12061	
21-12063	
21-12065	
21-12067	
21-12069	
21-12071	
21-12073	
21-12075	
21-12077	
21-12079	
21-12081	
21-12083	
21-12085	
21-12087	
21-12089	
21-12091	
21-12093	
21-12095	
21-12099	
21-12105	
21-12107	
21-12109	
21-12113	

(Subcase list: 21FILE89)
9/13/02

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF PARTIAL DECREE FOR FEDERAL RESERVED WATER RIGHT AND ORDER DISALLOWIN STATE LAW BASIS FOR SAME was mailed on November 18, 2002, with sufficient first-class postage to the following:

USDI BLM

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724
Phone: 208-387-0835

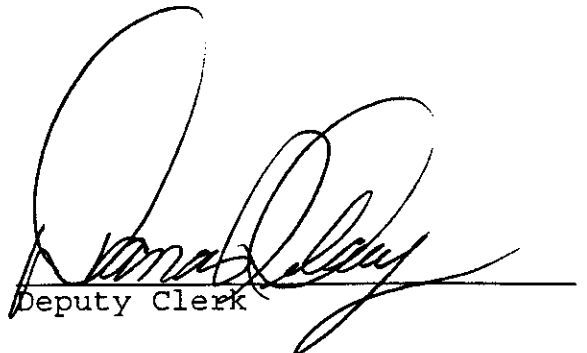
DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

ORDER OF PARTIAL DECREE

Page 1 11/18/02

FILE COPY FOR 00089

Deputy Clerk

A handwritten signature in black ink, appearing to read "Dana Deery", is written over a horizontal line. The signature is stylized with large loops and a long tail.

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 21-12013

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

SOURCE: SPRING TRIBUTARY: WILLOW CREEK

QUANTITY: 0.02 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 04/17/1926

* 4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT. *
* *
* THIS WATER RIGHT IS CLAIMED BASED ON FEDERAL LAW *
* WITH AN APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN *
* EXECUTIVE ORDER SIGNED THE SAME DATE AND KNOWN AS PUBLIC *
* WATER RESERVE 107. *

POINT OF DIVERSION: T09N R42E S01 SENWSW Within Fremont County

PURPOSE AND			
PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Stockwater Within Fremont County
T09N R42E S01 NWSW

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.

Roger Burdick

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication