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Department of Water Resources

1999 OCT -6 PM 3:04
DISTRICT COURT - SRBA
TWIN FALLS CO., 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

Case No. 39576

ORDER OF PARTIAL DECREE

For Water Right 57-10486

On April 22, 1998, a *Special Master's Report and Recommendation* was filed for the above water right. On May 28, 1998 a *Motion to Alter or Amend Special Master's Recommendation* was filed by Jay Hulet. On July 16, 1998, Special Master Haemmerle issued an *Order Granting Motions to Alter or Amend*, which recommended that the above water right be decreed containing the following language under the source element of the water right: "The source of this water right is water flows arising in Sinker Creek downstream from the Hulet Reservoir. This water right is not delivered through either the Hulet Reservoir or the Murphy Mutual Canal." The Special Master's July 16, 1998 Order also directed the Idaho Department of Water Resources to prepare and file with the court an Amended Special Master's Recommendation for Partial Decree, but for some reason this never happened.¹ On June 22, 1999, a *Notice of Challenge* for this water right (as well as a number of other water rights) was filed by Joyce Livestock Company ("Joyce"). Although water right 57-

¹ The typical procedure following the issuance of a special master's order on a motion to alter or amend is that IDWR provides an amended special master's recommendation, the special master then stamps a "recommendation" thereto and attaches a Special Master's Report. These documents are then forwarded to the district court. For reasons that are not apparent, this typical procedure was not followed with respect to this water right. However, the Special Master's July 16, 1998 Order indicates that, with the exception of the additional language to the source element reiterated above, all

10486 was listed in the caption in Joyce's *Notice of Challenge*, Joyce stated in its opening brief that water right 57-10486 "[is] not at issue in this challenge." *Challenger's Opening Brief* at 1. On October 6, 1999, this Court issued a *Memorandum Decision and Order on Challenge* which denied Joyce's challenge.

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* (April 22, 1998) and in the *Order Granting Motions to Alter or Amend* (July 16, 1998), and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 57-10486 is hereby **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED October 6, 1999.



BARRY WOOD
Administrative District Judge and
Presiding Judge of the
Snake River Basin Adjudication

other elements of this water right are unchanged from the Special Master's April 22, 1998 recommendation.

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 57-10486

NAME & ADDRESS: JOYCE LIVESTOCK CO
C/O PAUL NETTLETON
MURPHY ID 83650

SOURCE: SINKER CREEK TRIBUTARY: SNAKE RIVER

THE SOURCE OF THIS WATER RIGHT IS WATER FLOW ARISING IN
SINKER CREEK DOWNSTREAM FROM THE HULET RESERVOIR. THIS WATER
RIGHT IS NOT DELIVERED THROUGH EITHER THE HULET RESERVOIR OR THE
MURPHY MUTUAL CANAL.

QUANTITY: 0.4 CFS

PRIORITY DATE: 07/26/1917

POINT OF DIVERSION:	T03S R01W S30	NESE	Within Owyhee County
		SWSE	
	S31	NENW	
		SNNW	
		SENW	
	R02W S36	SESE	
	T04S R02W S01	NWNE	
		NESW	
	S11	NWNE	
		NENW	(INSTREAM BEGINNING POINT)
	T03S R01W S30	NESE	(INSTREAM ENDING POINT)

PURPOSE AND			
PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	STOCKWATER	01-01 12-31	0.4 CFS

PLACE OF USE:	STOCKWATER	Within Owyhee County	
	T03S R01W S30	SWSE	
	S31	NENW	SWNW
	R02W S36	NESE	SENW
	T04S R02W S01	Lot 2 (NWNE)	Lot 3 (NENW)
		NWSW	SESE
	S02	SWSE	SENW
	S11	NWNE	NESW

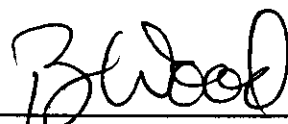
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

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.

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.



BARRY WOOD

Administrative District Judge
Presiding Judge of the
Snake River Basin Adjudication

1999 OCT 06 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): 57-10486

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 57-10486 was mailed
on October 06, 1999, with sufficient first-class postage prepaid
to the following:

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

STATE OF IDAHO
Represented by:
CLIVE STRONG
NATURAL RESOURCES
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720-0010
Phone: 208-334-2400

JAY HULET
Represented by:
DANIEL V. STEENSON
PO BOX 2773
BOISE, ID 83701-2773
Phone: 208-342-4591

CERTIFICATE OF MAILING

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10/06/99

JOYCE LIVESTOCK

Represented by:
RICHARD L. HARRIS
PO BOX 1438
1023 ARTHUR STREET
CALDWELL, ID 83606
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USDI BLM

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724
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PAUL NETTLETON
JOYCE LIVESTOCK
MURPHY, ID 83650

DIANA DELANEY
Chief Deputy Clerk