

RECEIVED

MAR - 7 2003

Department of Water Resources

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____
2003 MAR 5 AM 9 39

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 36-00005B**
)

On 01-27-2003, a *Special Master's Report and Recommendation* was filed for the above water right. 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.

Therefore, IT IS ORDERED that water right 36-00005B is hereby decreed as set forth in the attached *Partial Decree* Pursuant to I.R.C.P. 54(b).

DATED March 5, 2003



ROGER S. BURDICK
Presiding Judge
Snake River Basin Adjudication

ORDER OF PARTIAL DECREE

DISTRICT COURT - SRBA
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
FILED

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

2003 MAR 5 AM 9 39

Water Right 36-00005B

NAME AND ADDRESS: KINGSTON PROPERTIES LP
477 SHOUP AVENUE SUITE 207
IDAHO FALLS, ID 83402

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 1.40 CFS

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

THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER
DESCRIBED FOR STOCKWATER PURPOSES AT A POINT OF MEASUREMENT
WHERE THE DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED.

PRIORITY DATE: 09/10/1884

POINT OF DIVERSION: T07S R13E S11 SESENE Within Gooding County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	02-15 TO 11-30	1.40 CFS
Stockwater	01-01 TO 12-31	0.05 CFS
Fish Propagation	01-01 TO 12-31	1.40 CFS

THE PORTION OF THIS RIGHT FOR FISH PROPAGATION PURPOSES IS
SUBORDINATED TO ALL GROUND AND SURFACE WATER RIGHTS WITH PRIORITY
DATES OF AUGUST 15, 2002, OR EARLIER.

PLACE OF USE:

Irrigation		Within Gooding County
T07S R13E S27	SWNW 24.0	NWSW 9.0
S28 LOT 4	(SWNE) 9.0	SENE 25.0
	NESE 40.0	LOT 5 (NWSE) 22.0
129.0 Acres Total		
Stockwater		Within Gooding County
T07S R13E S27	SWNW	NWSW
S28 LOT 4	(SWNE)	SENE
	NESE	LOT 5 (NWSE)
Fish Propagation		Within Gooding County
T07S R13E S27	SWNW	
S28 LOT 4	(SWNE)	SENE

USE OF THIS RIGHT WITH RIGHTS 36-00003B AND 36-00019B IS
LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 129 ACRES IN A
SINGLE IRRIGATION SEASON.

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

THE QUANTITY OF WATER DECREED FOR THIS RIGHT FOR STOCKWATER
USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
THE PORTION OF THIS WATER RIGHT FOR FISH PROPAGATION PURPOSES
SHALL NOT BE ASSERTED, DELIVERED, USED, ENFORCED, EFFECTIVE, OR
OTHERWISE RECOGNIZED IF IT WOULD CAUSE OR REQUIRE IN ANY WAY
OR OTHERWISE RESULT IN, EITHER DIRECTLY OR INDIRECTLY,
CURTAILMENT OF, INJURY TO, OR MITIGATION FROM ANY SURFACE AND
GROUND WATER RIGHTS EXISTING AS OF AUGUST 15, 2002.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

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
Presiding Judge of the
Snake River Basin Adjudication