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Department of Water Resources

DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED \_\_\_\_\_

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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

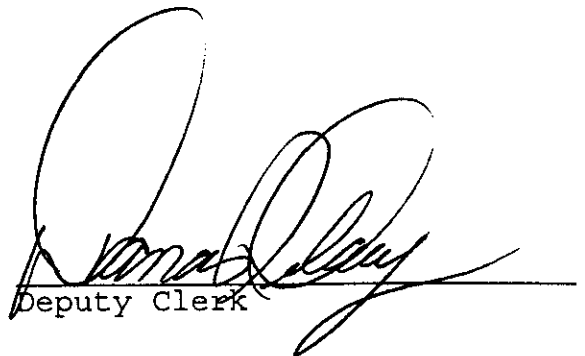
CERTIFICATE OF MAILING

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

A large, stylized handwritten signature in black ink, likely belonging to the Deputy Clerk, is written over a horizontal line.

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 21-12007

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 S02 SESESE Within Fremont County

| PURPOSE AND<br>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 S02 SESE

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  
Presiding Judge of the  
Snake River Basin Adjudication