

**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)	Consolidated Subcase: 91-63
)	
Case No. 39576)	FINAL ORDER ON CROSS-MOTIONS
)	FOR SUMMARY JUDGMENT
)	
)	
)	
)	
_____)	

On September 1, 2004, this Court issued a *Memorandum Decision and Order on Cross-Motions for Summary Judgment*, Consolidated Subcase 91-63 (Sept. 1, 2004). At the conclusion of the opinion, the Court ordered the parties to attempt to agree upon a remark to be included in the partial decrees for the subject water rights, which defines the ownership of the rights consistent with the Court’s opinion. The remark establishes how the ownership element will appear in the partial decrees and also determines how future water rights involving the same issue should be recommended by IDWR. The date for submittal was extended until January 3, 2005. Ultimately the parties did not agree upon specific language, albeit the proposals appeared to all be legally consistent with the Court’s ruling.

THEREFORE, the following are hereby ordered:

1. The name of the United States of America acting through the Bureau of Reclamation shall appear in the “*Name and Address*” element of the partial decrees.
2. In the “*Other Provisions Necessary for Definition or Administration of Water Right*” section of the partial decrees, the following remark shall appear:

Although the name of United States of America acting through Bureau of Reclamation appears in the Name and Address section of this partial decree, the ownership of this water right is divided. The United States Bureau of Reclamation holds nominal legal title. Beneficial or equitable title is vested in the landowners using the water. Pursuant to Idaho law, the landowners’ interest is held in trust by the various irrigation organizations contracting with the Bureau of Reclamation for delivery and/or storage of this water, in quantities and/or percentages specified in the respective contracts between the Bureau of Reclamation and the irrigation organizations.

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 the 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 January 7, 2005

/s/ John Melanson

JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication