

2003 OCT 14 AM 10:40

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	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
_____	)	FOR WATER RIGHT 61-04132

I. FINDINGS OF FACT

A notice of claim was filed for this water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

A *Motion to File Amended Notice of Claim* was filed by Batruel Dairy in the above listed subcase. An objection was lodged on April 10, 2000, by Batruel Dairy. Subsequently, on June 24, 2003, the day trial was set, a *Standard Form 5* was filed. All parties and IDWR are signatures to the *Standard Form 5*.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein and pursuant to the *Standard Form 5*, IT IS RECOMMENDED that the elements for water right 61-04132 be decreed as set forth in the *Attached Recommendation for Partial Decree pursuant to I.R.C.P. 54(b)*.

DATED: October 14, 2003.



THOMAS R. CUSHMAN
Special Master
Snake River Basin Adjudication

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

2003 OCT 14 AM 10:40
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 61-04132

NAME AND ADDRESS: BATRUEL DAIRY
MARY BATRUEL
PAUL BATRUEL
RT 1 BOX 428
GLENNS FERRY, ID 83623

SOURCE: LITTLE CANYON CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 10.00 CFS

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

PRIORITY DATE: 03/29/1903

POINT OF DIVERSION: T04S R10E S09 NENWNE Within Elmore County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	10.00 CFS
	Stockwater	01-01 TO 12-31	0.29 CFS

PLACE OF USE: Irrigation Within Elmore County

T05S R09E S12	NWSE 5.0	SWSE 7.0
S13	NWNE 3.0	SWNE 24.0
LOT 2	(SENE) 16.0	NENW 19.5
	NWNW 1.5	SWNW 1.0
	SENE 19.0	SESW 13.0
	NESE 39.0	NWSE 16.0
R10E S18	SENE 30.0	LOT 3 (NWSW) 39.0
LOT 4	(SWSW) 38.0	NESE 17.0
	NWSE 40.0	
328.0 Acres Total		

Stockwater Within Elmore County

T05S R09E S12	NWSE	SWSE
S13	NWNE	SWNE
LOT 2	(SENE)	NENW
	NWNW	SWNW
	SENE	NESE
	NWSE	SESE
R10E S18	SENE	NESW
LOT 3	(NWSW)	LOT 4 (SWSW)
	NWSE	

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

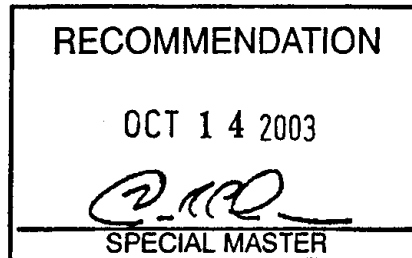
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

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 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.

Presiding Judge of the
Snake River Basin Adjudication



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TWIN FALLS CO., IDAHO
FILED *[Signature]*

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): 61-04132

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on October 14, 2003, with sufficient first-class postage prepaid to the following:

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

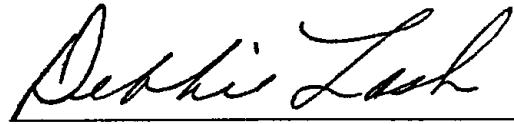
MARY BATRUEL
PAUL BATRUEL
Represented by:
MATT J. HOWARD
ATTORNEY AT LAW
PO BOX 190012
BOISE, ID 83719
Phone: 208-333-0622

BATRUEL DAIRY
PAUL & MARY BATRUEL
RT 1 BOX 428
GLENN'S FERRY, ID 83623
Phone: 208-366-7272

CERTIFICATE OF MAILING

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BATRUEL DAIRY
RT 1 BOX 428
GLENN'S FERRY, ID 83623
Phone: 208-366-2375

A handwritten signature in cursive script, reading "Debbie Lash", written in black ink.

DEBBIE LASH
Deputy Clerk

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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED *[Signature]*

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_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 61-04132

On October 14, 2003, Special Master THOMAS R CUSHMAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED October 14, 2003.

Debbie Lash
DEBBIE LASH
Deputy Clerk