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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	)	**SPECIAL MASTER'S REPORT**
Case No. 39576	)	**FINDINGS OF FACT AND CONCLUSIONS OF LAW**
	)	**FOR WATER RIGHTS 65-03160 and 65-03161**

I. FINDINGS OF FACT

A notice of claim was filed for these water rights 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 these water rights.

An objection was filed to the above listed water rights on October 18, 2000, by the United States of America, Bureau of Reclamation. A *Motion to File Late Objection* was filed on April 19, 2002, by Gurnsey Investments LTD. The objections to the General Provisions in these water rights were resolved with the filing of a *Standard Form 5.* At hearing on March 14, 2003, Vern Gernsey *Motioned to Withdraw the Motion to File Late Objections.*

IT IS ORDERED that the *Motion to Withdraw Motion to File Late Objections* is **granted.**

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein and pursuant to the *Standard Form's 5* and the *Motion to Withdraw Motion to File Late Objections*, IT IS RECOMMENDED that water rights 65-03160 and 65-03161 be **decreed** with the elements as set forth in the attached ***Recommendations for Partial Decree pursuant to I.R.C.P. 54(b).***

DATED: October 16, 2003.

THOMAS R CUSHMAN
Special Master
Snake River Basin Adjudication

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In Re SRBA	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 65-03160

NAME AND ADDRESS: HARRY L BETTIS
STAR ROUTE
PAYETTE, ID 83661

SOURCE: LAKE FORK CREEK TRIBUTARY: PAYETTE RIVER, NORTH FORK

QUANTITY: 1.14 CFS

PRIORITY DATE: 05/01/1909

POINT OF DIVERSION: T17N R03E S10 NWNWNE Within Valley County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	05-01 TO 09-15	1.14 CFS

PLACE OF USE: Irrigation Within Valley County

T17N R03E S27 NESE 40.0 NWSE 30.0
SWSE 37.0 SESE 40.0
147.0 Acres Total

USE OF THIS RIGHT WITH RIGHT NO. 65-03161 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 147 ACRES IN A SINGLE IRRIGATION SEASON.

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

BASIN 65 GENERAL PROVISIONS NO. 3, THE SEPARATE STREAMS GENERAL PROVISION, DOES NOT APPLY TO APPROPRIATIONS OF WATER AFTER OCTOBER 18, 1977.
THIS WATER RIGHT SHALL BE ADMINISTERED AS BEING FROM A SEPARATE SOURCE PURSUANT TO BASIN 65 GENERAL PROVISION NO. 3. IF THE HOLDER OF THIS RIGHT SEEKS TO CHANGE THE RIGHT PURSUANT TO IDAHO CODE SECTION 42-222 OR SUCCESSOR STATUTE, NOTHING IN THIS GENERAL PROVISION SHALL PRECLUDE ANY OTHER PERSON OR ENTITY FROM DEMONSTRATING THAT SUCH CHANGE IN USE WOULD CAUSE INJURY TO ITS WATER RIGHT OR FROM RECEIVING ANY RELIEF PROVIDED BY LAW IN THE EVENT OF INJURY.
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

RECOMMENDATION

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SPECIAL MASTER

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

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In Re SRBA	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 65-03161

NAME AND ADDRESS: HARRY L BETTIS
STAR ROUTE
PAYETTE, ID 83661

SOURCE: LAKE FORK CREEK TRIBUTARY: PAYETTE RIVER, NORTH FORK

QUANTITY: 0.46 CFS

PRIORITY DATE: 05/01/1919

POINT OF DIVERSION: T17N R03E S10 NWNWNE Within Valley County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	05-01 TO 09-15	0.46 CFS

PLACE OF USE: Irrigation Within Valley County

T17N R03E S27	NESE 40.0	NWSE 30.0
	SWSE 37.0	SESE 40.0

147.0 Acres Total

USE OF THIS RIGHT WITH RIGHT NO. 65-03160 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 147 ACRES IN A SINGLE IRRIGATION SEASON.

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

BASIN 65 GENERAL PROVISIONS NO. 3, THE SEPARATE STREAMS GENERAL PROVISION, DOES NOT APPLY TO APPROPRIATIONS OF WATER AFTER OCTOBER 18, 1977.
THIS WATER RIGHT SHALL BE ADMINISTERED AS BEING FROM A SEPARATE SOURCE PURSUANT TO BASIN 65 GENERAL PROVISION NO. 3. IF THE HOLDER OF THIS RIGHT SEEKS TO CHANGE THE RIGHT PURSUANT TO IDAHO CODE SECTION 42-222 OR SUCCESSOR STATUTE, NOTHING IN THIS GENERAL PROVISION SHALL PRECLUDE ANY OTHER PERSON OR ENTITY FROM DEMONSTRATING THAT SUCH CHANGE IN USE WOULD CAUSE INJURY TO ITS WATER RIGHT OR FROM RECEIVING ANY RELIEF PROVIDED BY LAW IN THE EVENT OF INJURY.

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Presiding Judge of the
Snake River Basin Adjudication

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In Re SRBA)
)
Case No. 39576)
)

CERTIFICATE OF MAILING

Water Right(s): 65-03160
65-03161

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 16, 2003, with sufficient first-class postage prepaid to the following:

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

HARRY L BETTIS
Represented by:
JOSEPHINE P. BEEMAN
409 WEST JEFFERSON STREET
BOISE, ID 83702
Phone: 208-331-0950

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

USDI BUREAU OF RECLAMATION
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

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PAYETTE, ID 83661
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GURNSEY INVESTMENTS LTD
GURNSEY INVESTMENTS, LTD
VERN L GURNSEY
1111 W HIGHLAND VIEW DR
BOISE, ID 83702
Phone: 208-343-1780

Debbie Lash

DEBBIE LASH
Deputy Clerk

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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	NOTICE OF ISSUANCE OF SPECIAL MASTER'S RECOMMENDATION Water Right(s): 65-03160 65-03161

On October 16, 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 16, 2003.

DEBBIE LASH
Deputy Clerk