SUPPLEMENTAL DIRECTOR'S REPORT PREPARED PURSUANT TO RULE 706, IDAHO RULES OF EVIDENCE

AMENDED DIRECTOR'S REPORTS FOR WATER RIGHT NO. 63-4631B SPLIT INTO: 63-31733, 63-31734, 63-31735 AND 63-31736

In Re SRBA
Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
Karl J. Dreher, Director
David R. Tuthill, Jr., Adjudication Bureau Chief

January 30, 2004

1. INTRODUCTION

The Director of the Idaho Department of Water Resources ("IDWR" or "the Department") submits this Supplemental Director's Report regarding subcase number 63-4631B and its corresponding proposed split rights in accordance with Idaho Code § 42-1412(4), Administrative Order 1, Rule 706, Idaho Rules of Evidence, and *Order Setting Trial Schedule and Deadline* issued by Special Master Cushman on January 6, 2004. This report sets forth the basis of the Department's recommendation for the above-listed water right(s) and was prepared under the supervision of Karl J. Dreher, Director, and David R. Tuthill, Jr., Adjudication Bureau Chief for IDWR.

The following employees from the Department have knowledge of the information contained in this report: Jan Shurte, Water Rights Supervisor, Western Regional Office; Gene Gibson, former Senior Water Resource Agent, Western Regional Office; David Tuthill, Adjudication Bureau Chief, State Office; Scott King, presently an Engineer at the Western Regional Office; and Lori Graves, Senior Water Resource Agent, Western Regional Office.

2. HISTORICAL AND PROCEDURAL BACKGROUNDS

Water right claim number 63-4631B was reported by the Department in the *Director's Report for Irrigation & Other Uses, Reporting Area 13, Basin 63 (Part 1)* for the Boise River Drainage Basin above Lucky Peak dam, filed with the SRBA Court in September of 2002. This water right was originally filed as a statutory claim pursuant to Idaho Code § 42-243, et seq. in 1979 in the amount of 10 cfs for irrigation of 160 acres, and .08 cfs for domestic use for two homes, from the South Fork of the Boise River, Van Gulch, Big Water Gulch, Little Water Gulch and Stevens Gulch. Water right claim

number 63-4631 was claimed in the SRBA in 1989 by the South Fork Ranch Subdivision/Calmer & Enide Johnson for 145 acres and 2.90 cfs from the same sources. Subsequent to the 1989 filing, the water right was split into A and B portions due to an ownership change.

The A portion, owned by the South Fork Ranch Subdivision, was then claimed in the SRBA on August 28, 2000 for 145 acres and 2.9 cfs. The B portion to water right number 63-4631, now owned by Raymond and Fay Thurman, was originally claimed in the SRBA on December 16, 1999 for 15 acres and 10 cfs with a priority date of June 20, 1862. Mr. Thurman filed an amended claim on September 25, 2000 adding year-round stockwater use.

The A portion was split into C, D and E. The C, D, and E portions of the parent right were decreed in the SRBA on or about December 1, 2003. See Orders of Partial Decrees attached as Exhibit Numbers 1, 2 and 3. All of these water right recommendations were derivatives of the statutory claim for the original ranch, which was patented under Homestead Entry Survey #149, located at Township 3 North, Range 11 East, within Elmore County. On October 5, 1899 a notice of water right was posted in Elmore County establishing the use of water of Big Water Gulch. The department recommended the date of posting as the priority date for the splits of 63-4631; each split was given a proportionate share of the original water right.

Three objections were filed to the Director's recommendation for 63-4631B by the following persons or entities: 1) Raymond Thurman; 2) the United States Forest Service ("USFS"); and 3) the Edgar L. Stevens Water Users Association ("ELSWUA").

The Raymond Thurman objection was to quantity, priority date, and point(s) of diversion.

The USFS objection was to quantity, point of diversion (Stevens Gulch) and place of use. The Department subsequently prepared a revised recommendation identified as 63-31736, splitting out only the elements of the right associated with the Stevens Gulch source (Exhibit 9), which added Government Lot 4 to the point of diversion and place of use descriptions and a remark to the place of use which states: *"All places of use are on private land within Homestead Survey (HES) 149."* Those changes resolved the objection filed by the USFS. A settlement agreement was subsequently executed by the parties for that particular objection.

The ELSWUA[1] filed a Motion to Participate that was considered a Motion for Late Objection. The Motion for Late Objection was granted by the Special Master at the initial hearing held on July 29, 2003. The ELSWUA objected to quantity, priority date and point(s) of diversion.

An informal settlement meeting was scheduled for August 20, 2003 and was later cancelled due to increased tension between the parties. At the Status Hearing held on September 12, 2003, Special Master Cushman ordered a court-moderated settlement meeting and appointed Special Master Bilyeu as the settlement moderator.

A Mandatory Settlement Conference was held in Twin Falls on October 28, 2003. During that settlement hearing, the USFS resolved its objection as described above and executed a Standard Form 5 for split right 63-31736. A tentative settlement also was

[1] IDWR has been informed that the Edgar L. Stevens Water Users Association, Inc. is a separate entity established in September of 2000 pursuant to a meeting held by the Board of Directors of the South Fork Ranch Subdivision. This entity was formed by the subdivision to oversee the operation of its irrigation system, including the head gates and ditches.

reached on the ELSWUA objection. However, since the ELSWUA representative claimed he did not have settlement authority he had to take the proposed settlement back to ELSWUA for approval. It subsequently was rejected by ELSWUA.

Pursuant to an *Order Requesting Clarification of Amended Director's Report* issued by Special Master Cushman on November 12, 2003, an Amended Director's Report was filed on or about November 19, 2003 explaining that the Stevens Gulch portion of water right number 63-4631B had been split out and renumbered as 63-31736, and that the changes made therein had resolved the USFS objection. However, it was recommended that no action be taken on the SF 5 for 63-31736 pending resolution of the Thurman and ELSWUA objections.

3. DISCUSSION

A. Field Examinations overview

Senior Water Resource Agent Sue Bock was originally assigned this water right claim for field examination and investigation in preparation for filing the Director's Report for Basin 63, Part 1. On June 7, 2001, Ms. Bock conducted a field examination. She was accompanied by Lori Graves. During their field examination, the water rights agents had the opportunity to visit with Calmer and Enide Johnson. Mr. And Mrs. Johnson relayed to them that they had purchased the entire place of use for 63-4631 in 1977 and since that purchase, the property had been parceled into lots known as the South Fork Ranch Subdivision ("subdivision"). A parcel on the west end, however, had been sold to a third party who subsequently sold it to the Thurmans (see map attached as Exhibit Number 4 and a photograph of the Thurman property attached as Exhibit Number 5).

It was apparent during the examination that water from Big Water Gulch and Van Gulch was delivered to Mr. Thurman's property. Water from these points of diversion flows in ditches across the subdivision to reach Mr. Thurman's property. Additionally, there was a pipe in Stevens Gulch that delivered water to the place of use. Water from Stevens Gulch does not travel across the subdivision to reach Mr. Thurman's property.

Based upon the June 7, 2001 field examination, Sue Bock prepared a draft recommendation that recommended 0.430 cfs for 0.5 acres for irrigation (including conveyance loss) from Big Water Gulch Creek, Stevens Gulch Creek and Van Gulch Creek with an October 5, 1899 priority date.

Due to the controversial nature of these water rights an additional investigation was done on August 31, 2001 by Adjudication Bureau Chief Dave Tuthill and Sue Bock. The purpose of that investigation was to redetermine ditch conveyance loss in response to concerns raised about the quantity initially recommended to the subdivision. Soil types and ditch measurements were acquired for the analysis. Following that investigation, a department engineer, Scott King, calculated the ditch conveyance loss to be .43 cfs and allowed .03 cfs for irrigation, for a total quantity of 0.46 cfs for irrigation of .50 acre of land. The draft recommendation was revised to reflect this change in quantity. This revised recommendation ultimately was included in the Director's Report for Basin 63, Part 1, filed in September 2002.[2]

After the objections were filed to that recommendation, Senior Water Resource Agent Gene Gibson conducted a field examination on June 12, 2003. He met with

[2] However, this recommendation contained an error. IDWR intended to recommend 0.03 cfs for the irrigation of 0.5 acres, plus 0.43 cfs for conveyance loss, for a total quantity of 0.46 cfs. Instead, it inadvertently recommended a total quantity of 0.43 cfs.

Raymond, Fay and Curtis Thurman to review the information and background of the original claim filed by the subdivision as well as the claim filed by Raymond Thurman.

Gene Gibson verified the place of use and noted that irrigation was taking place on that day. Mr. Gibson walked the place of use taking readings with a hand level to determine the lay of the land and to obtain GPS readings for verification of the description of the place of use. He also reviewed the conveyance system with Mr. Thurman and took GPS readings for the points of diversion for Mr. Thurman's property and the subdivision. The conveyance loss was recalculated for all sources and factored into the total quantity of water to be recommended. During Mr. Gibson's field examination, he found that Mr. Thurman could flood irrigate 0.8 of an acre on the south end of his place of use below his house, from the South Fork of the Boise River, Little Water Gulch (provided that the ditch crossing of Big Water Gulch was repaired), Big Water Gulch #1 and #2 and Van Gulch. (Refer to Exhibit Numbers 6 and 7 outlined below.)

Mr. Thurman was able to irrigate the complete place of use below his house, consisting of 8 acres (the 0.8 acres on the south end of the property and an additional 7.2 acres to the north, closer to the house) from Big Water Gulch #1 and Van Gulch (Exhibit Number 8).

Further, Mr. Thurman was using a pipeline and sprinklers to irrigate an 0.8 of an acre portion of the 7.2 acre northern parcel from Stevens Gulch (Exhibit Number 9). Mr. Gibson determined that it was physically possible, or historically had been possible, to carry the recommended quantity of water from the recommended points

of diversion to the recommended place of use. He did not investigate, and did not determine, what legal right, if any, Mr. Thurman had to carry his water in ditches crossing the subdivision.

B. Proposed splits

The department is hereby proposing a revision of its findings based upon Mr. Gibson's field work. Revised water right recommendations have been prepared, and are attached to this report as Amended Director's Reports, which split water right 63-4631B into: 63-31733[3], 63-31734, 63-31735 and 63-31736[4]. Attached as Exhibit Numbers 6, 7, 8, and 9 are printouts of the recommendations.

The splits were prepared as follows:

Split number	Quantity	Number of Acres	Source
63-31733 Exhibit No. 6	0.868 cfs limited to 0.16 cfs at field head gate	0.8 acres limited to total of 8 acres	South Fork Boise River
63-31734 Exhibit No. 7	0.494 cfs limited to 0.16 cfs at field head gate	0.8 acres limited to total of 8 acres	Big Water Gulch Little Water Gulch
63-31735 Exhibit No. 8	0.775 cfs	8 acres	Big Water Gulch Van Gulch
63-31736 Exhibit No. 9	0.024 cfs	0.8 acres	Stevens Gulch
Total =	2.16 cfs	8 acres	

C. Disputed Elements For this report, the only objections that will be addressed are those of Raymond Thurman and the ELSWUA since the USFS executed a Standard

[3] The point of diversion for this split is the South Fork of the Boise River. IDWR has information that this point of diversion was not developed until 1930. Thus, this right is recommended with a 1930 priority date, rather than the 1899 priority date recommended for the other splits.

[4] These splits are based on the delivery system. Several ditches enter Mr. Thurman's property. Each ditch carries water from one or more points of diversion to some or all of the place of use. Each split describes the sources, points of diversion, and place of use attributable to a particular ditch or ditch system.

Form 5 for split right 63-31736, as previously discussed. Additionally, the place of use remark requested by the USFS was added to the split right recommendations.

Quantity: The Thurman's objection requests the Department to recommend enough water for irrigation of 9.5 acres of land. Sue Bock in the original field examination found 0.5 acres being irrigated and a quantity of 0.43 cfs. Gene Gibson in his field examination found a total of 8 acres that were, or historically had been irrigated. Based on the evidence and observations of Mr. Gibson, IDWR concluded there was sufficient evidence to recommend splits of the original beneficial use rights for the 8 acre place of use with a total quantity of 2.16 cfs.

Priority date: Mr. Thurman's objection states that the priority date should be 1862, which he contends is the date of the original homestead.[5] IDWR has not been provided evidence establishing that the priority date of the original parent right predates the 1899 posted notice. It therefore continues to recommend 1899 as the priority date for split rights 63-31734, 63-31735 and 63-31736. As previously noted it recommends a 1930 priority date for 63-31733.

Points of diversion: Mr. Thurman's objection states that the sources should be identified as: Big Water Gulch Creek #1 and #2, Little Water Gulch Creek, Stevens Gulch Creek, Van Gulch Creek and the South Fork, Boise River. The ELWUA's objection states that the points of diversion should be Big Water #1, Van Gulch Creek and Stevens Gulch Creek and further states that the South Fork of the Boise River, Big Water #2 and Little Water only provide water to the subdivision. In his field examination

[5] At the initial hearing on Mr. Thurman's objection, IDWR believes he verbally agreed to accept the 1899 priority date. However, IDWR now understands that Mr. Curtis Thurman has found information at the Blaine County Courthouse which may be evidence of an earlier priority date. Thus, IDWR does not know the current status of the objection to this element. The rights to the subdivision have already gone to partial decree with the same 1899 priority date recommended to Mr. Thurman.

Mr. Gibson found the recommended place of use historically had received water from all the points of diversion claimed by Mr. Thurman. IDWR therefore now recommends those points of diversion.

There is and continues to be a longstanding dispute over water delivery of Mr. Thurman's rights and his use of the ditches on the subdivision. At this time, IDWR understands that Mr. Thurman is not a member of the subdivision. It is not in dispute that the ditches are located across property owned by the subdivision. IDWR has no information regarding what legal rights Mr. Thurman may possess to use those ditches.

4. CONCLUSION

After extensive investigation and discussions with the parties involved in this subcase, it has become apparent to IDWR that the crux of this dispute is water delivery, not the actual elements of the water right(s).

It is the Department's position that it does not have the authority to determine or recommend easements, rights-of-way, or other legal rights in the conveyance system and further, determinations of such type of rights are not within the scope of the adjudication. Rather, IDWR believes that the appropriate forum for such a type of quiet title action is the Fourth Judicial District Court in Elmore County.

Therefore, the Department recommends water right 63-4631B be decreed pursuant to the previously identified splits that are attached hereto (refer to Exhibit Numbers 6, 7, 8, and 9).

SUBMITTED this 30th day of January 2004.

JAN SHURTE
Adjudication Supervisor

CERTIFICATE OF SERVICE

I certify that on January 30, 2004, I served the original and/or copies of this form, including all attachments, to the following persons by delivering the original and/or copies, as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

__ Overnight Mail
✓ Regular Mail
__ Hand-Delivered
✓ Facsimile

Hand-delivered to Western Annex of SRBA

2. Copies to:

United States of America
US Dept of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Raymond Thurman
HC 87 Box 594
Featherville, ID 83647

Steve Burak (courtesy copy)
1495 Sales Yard
Emmett, ID 83706

Edgar L. Stevens Water Users Association
Lyons Woody, V.P.
1122 South Carnahan
King Hill, ID 83633

Bruce Smith
225 N 9th
Suite 420
Boise, ID 83702

Becky Harvey
Signature of person delivering form

EXHIBIT #1

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED
2003 DEC 1 PM 2 52

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	)	
	)	**ORDER OF PARTIAL DECREE**
Case No. 39576	)	
	)	**Water Right 63-04631C**

On October 16, 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 63-04631C be **decreed** as set forth in the attached ***Partial Decree Pursuant to I.R.C.P. 54(b)***.

DATED December 1, 2003.

JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

SCANNED
DEC 0 2 2003

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

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED
2003 DEC 1 PM 2 52

In Re SRBA)
)
Case No. 39576)
)

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

Water Right 63-04631C

NAME AND ADDRESS: SOUTH FORK RANCH SUBDIVISION
C/O CALMER OR ENIDE JOHNSON
1782 N HASKETT ST
MOUNTAIN HOME, ID 83647-1674

SOURCE: BIG WATER GULCH TRIBUTARY: SOUTH FORK BOISE RIVER

QUANTITY: 0.39 CFS

PRIORITY DATE: 10/05/1899

POINT OF DIVERSION: T03N R11E S12 NWNE Within Elmore County
NESW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	0.39 CFS

PLACE OF USE: Irrigation Within Elmore County
T03N R11E S11 NESE 1.5
S12 NWSW 2.5 SWSW 1.0
5.0 Acres Total

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

ALL PLACES OF USE ARE ON PRIVATE LAND WITHIN HOMESTEAD ENTRY SURVEY (HES) 149.

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.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

SCANNED
DEC 02 2003

2003 DEC 01 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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): 63-04631C

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 63-04631C was mailed on December 01, 2003, with sufficient first-class postage prepaid to the following:

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

UNITED STATES OF AMERICA
Represented by:
DAVID NEGRI
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

SOUTH FORK RANCH SUBDIVISION
C/O CALMER OR ENIDE JOHNSON
1782 N HASKETT ST
MOUNTAIN HOME, ID 83647-1674

JULIE MURPHY
Chief Deputy Clerk

SCANNED

DEC 0 2 2003

EXHIBIT #2

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED
2003 DEC 1 PM 2 48

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	**ORDER OF PARTIAL DECREE**
Case No. 39576	**Water Right 63-04631D**

On October 16, 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 63-04631D be **decreed** as set forth in the attached ***Partial Decree Pursuant to I.R.C.P. 54(b)***.

DATED December 1, 2003.

JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

SCANNED
DEC 0 2 2003

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

DISTRICT COURT-SRBA
TWIN FALLS CO:, IDAHO
FILED
2003 DEC 1 PM 2 48

In Re SRBA)
)
Case No. 39576)
)

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

Water Right 63-04631D

NAME AND ADDRESS: SOUTH FORK RANCH SUBDIVISION
C/O CALMER OR ENIDE JOHNSON
1782 N HASKETT ST
MOUNTAIN HOME, ID 83647-1674

SOURCE: BIG WATER GULCH TRIBUTARY: SOUTH FORK BOISE RIVER
VAN GULCH TRIBUTARY: SOUTH FORK BOISE RIVER

QUANTITY: 0.41 CFS

PRIORITY DATE: 10/05/1899

POINT OF DIVERSION: T03N R11E S11 NESE Within Elmore County
S12 NWNE
NESW

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	04-15 TO 10-31	0.41 CFS

PLACE OF USE:

Irrigation

T03N R11E S11	NESW	2.5	Within Elmore County
	NWSE	2.0	NESE 1.0

5.5 Acres Total

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

ALL PLACES OF USE ARE ON PRIVATE LAND WITHIN HOMESTEAD ENTRY SURVEY (HES) 149.

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.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

SCANNED
DEC 0 2 2003

2003 DEC 01 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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): 63-04631D

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 63-04631D was mailed on December 01, 2003, with sufficient first-class postage prepaid to the following:

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

UNITED STATES OF AMERICA
Represented by:
DAVID NEGRI
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

SOUTH FORK RANCH SUBDIVISION
C/O CALMER OR ENIDE JOHNSON
1782 N HASKETT ST
MOUNTAIN HOME, ID 83647-1674

JULIE MURPHY
Chief Deputy Clerk

SCANNED

DEC 0 2 2003

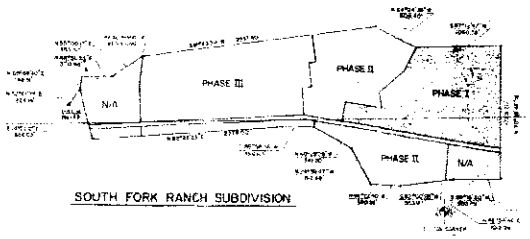
EXHIBIT #4

MAP OF SURVEY 149 FILED UNDER HOMESTEAD ACT OF 1862

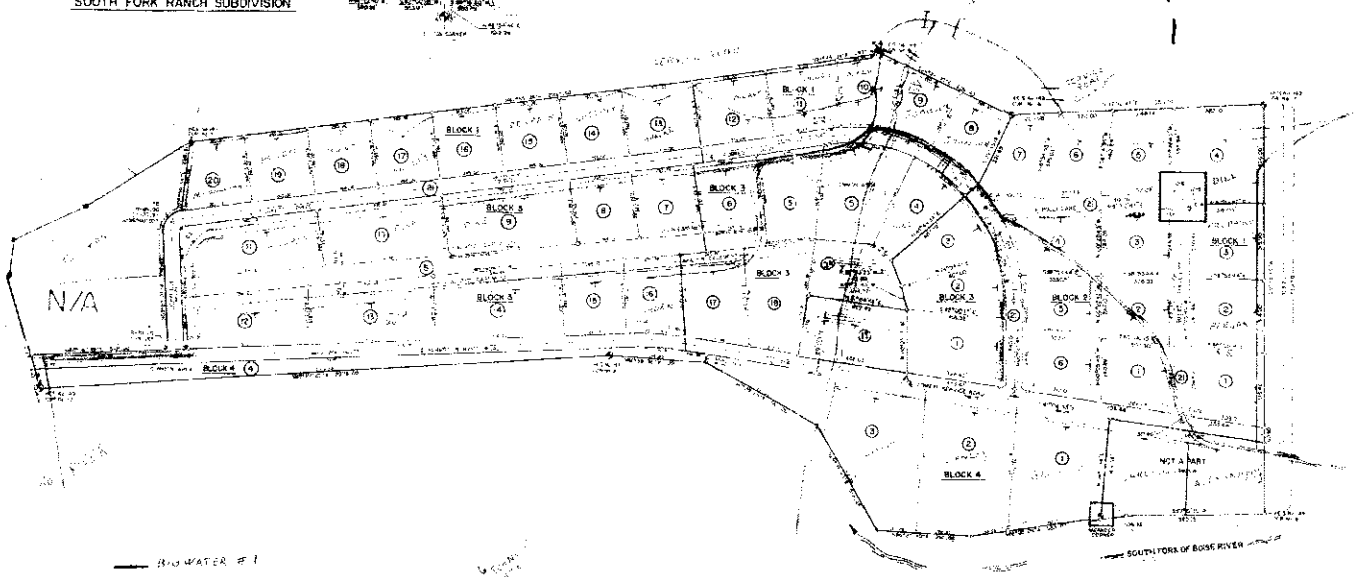
PATENT GIVEN TO EDGER L. STEVENS JULY 28, 1916 BY

PRESIDENT WOODROW WILSON

MAP NOT TO SCALE



SOUTH FORK RANCH SUBDIVISION



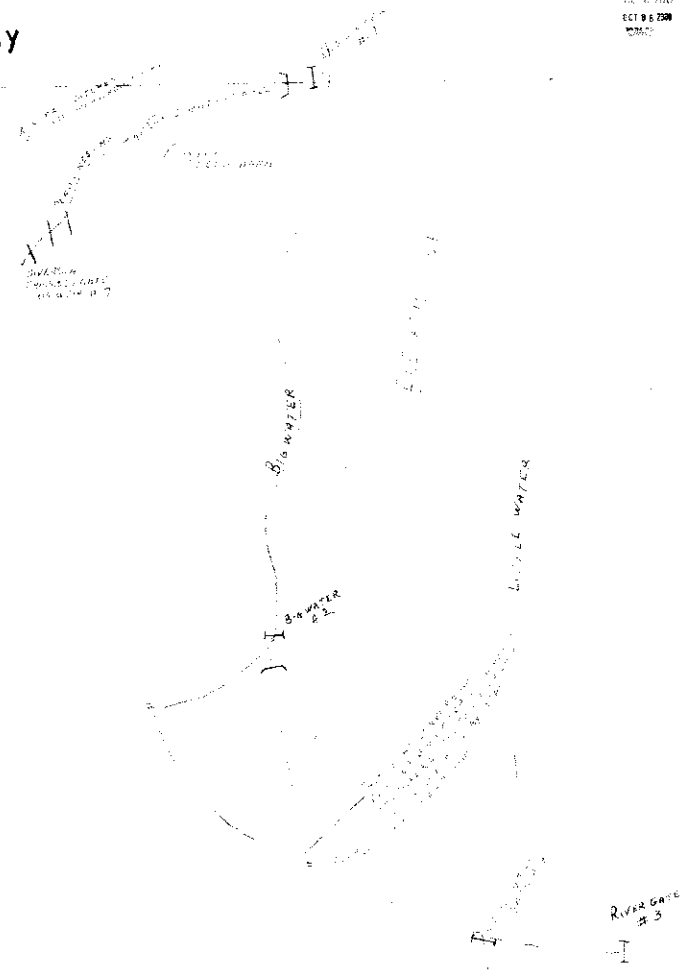


EXHIBIT #6

08/20/2003

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-31733

NAME AND ADDRESS: RAYMOND TAYLOR THURMAN
HC 87 BOX 594
FEATHERVILLE ID 83647

SOURCE: SOUTH FORK BOISE RIVER TRIBUTARY: BOISE RIVER

QUANTITY: 0.868 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF .16 CFS AT THE FIELD HEADGATE.
COMBINED RIGHT NUMBERS: 63-31733, 63-31734 & 63-31735.

PRIORITY DATE: 04/15/1930

POINT OF DIVERSION:

T03N R12E S7 NESW Within ELMORE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.868 CFS

PLACE OF USE: IRRIGATION Within ELMORE County

T03N R11E S11 Lot 5 SWSW 0.8

0.8 ACRES TOTAL

All places of use are on private land within Homestead Entry Survey (HES) 149.

USE OF THIS RIGHT WITH RIGHT NOS. 63-31734 & 63-31735 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 8 ACRES.

USE OF THIS RIGHT WITH RIGHT NO. 63-31734 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF .8 ACRES IN A SINGLE IRRIGATION SEASON.

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: Beneficial Use

EXHIBIT #7

08/20/2003

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-31734

NAME AND ADDRESS: RAYMOND TAYLOR THURMAN
HC 87 BOX 594
FEATHERVILLE ID 83647

SOURCE: BIG WATER GULCH TRIBUTARY: SOUTH FORK BOISE RIVER
LITTLE WATER GULCH TRIBUTARY: SOUTH FORK BOISE RIVER

QUANTITY: 0.494 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF .16 CFS AT THE FIELD HEADGATE.
COMBINED RIGHT NUMBERSS: 63-31733, 63-31734 & 63-31735.

PRIORITY DATE: 10/05/1899

POINT OF DIVERSION:

T03N R11E S12 NESW Within ELMORE County

T03N R11E S12 SESE Lot 7 Within ELMORE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.494 CFS

PLACE OF USE: IRRIGATION Within ELMORE County

T03N R11E S11 Lot 5 SWSW 0.8

0.8 ACRES TOTAL

All places of use are on private land within Homestead Entry Survey (HES) 149.

USE OF THIS RIGHT WITH RIGHT NOS. 63-31733 & 63-31735 IS LIMITED TO THE IRRIGATON OF A COMBINED TOTAL OF 8 ACRES.

USE OF THIS RIGHT WITH RIGHT NO. 63-31733 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF .8 ACRES IN A SINGLE IRRIGATION SEASON.

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: Beneficial Use

EXHIBIT #8

08/20/2003

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-31735

NAME AND ADDRESS: RAYMOND TAYLOR THURMAN
HC 87 BOX 594
FEATHERVILLE ID 83647

SOURCE: BIG WATER GULCH — TRIBUTARY: SOUTH FORK BOISE RIVER
VAN GULCH — TRIBUTARY: SOUTH FORK BOISE RIVER

QUANTITY: 0.775 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF .16 CFS AT THE FIELD HEADGATE.
COMBINED RIGHT NUMBERS: 63-31733, 63-31734 & 63-31735.

PRIORITY DATE: 10/05/1899

POINT OF DIVERSION:

T03N R11E S11 SENE Lot 2 Within ELMORE County

T03N R11E S12 NWNE Within ELMORE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.775 CFS

PLACE OF USE: IRRIGATION Within ELMORE County

T03N R11E S11 Lot 3 NESW	1.1	T03N R11E S11 Lot 4 NWSW	3.8
T03N R11E S11 Lot 5 SWSW	2.9	T03N R11E S11 Lot 6 SESW	0.2

8 ACRES TOTAL

All places of use are on private land within Homestead Entry Survey (HES) 149.

USE OF THIS RIGHT WITH RIGHT NOS. 63-31733 & 63-31734 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 8 ACRES IN A SINGLE IRRIGATION SEASON.

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: Beneficial Use

EXHIBIT #8

08/20/2003

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-31735

NAME AND ADDRESS: RAYMOND TAYLOR THURMAN
HC 87 BOX 594
FEATHERVILLE ID 83647

SOURCE: BIG WATER GULCH — TRIBUTARY: SOUTH FORK BOISE RIVER
VAN GULCH — TRIBUTARY: SOUTH FORK BOISE RIVER

QUANTITY: 0.775 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF .16 CFS AT THE FIELD HEADGATE.
COMBINED RIGHT NUMBERS: 63-31733, 63-31734 & 63-31735.

PRIORITY DATE: 10/05/1899

POINT OF DIVERSION:

T03N R11E S11 SENE Lot 2 Within ELMORE County

T03N R11E S12 NWNE Within ELMORE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.775 CFS

PLACE OF USE: IRRIGATION Within ELMORE County

T03N R11E S11 Lot 3 NESW	1.1	T03N R11E S11 Lot 4 NWSW	3.8
T03N R11E S11 Lot 5 SWSW	2.9	T03N R11E S11 Lot 6 SESW	0.2

8 ACRES TOTAL

All places of use are on private land within Homestead Entry Survey (HES) 149.

USE OF THIS RIGHT WITH RIGHT NOS. 63-31733 & 63-31734 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 8 ACRES IN A SINGLE IRRIGATION SEASON.

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: Beneficial Use

EXHIBIT #9

08/21/2003

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-31736

NAME AND ADDRESS: RAYMOND TAYLOR THURMAN
HC 87 BOX 594
FEATHERVILLE ID 83647

SOURCE: STEVENS GULCH TRIBUTARY: SOUTH FORK BOISE RIVER

QUANTITY: 0.024 CFS

PRIORITY DATE: 10/05/1899

POINT OF DIVERSION:

T03N R11E S11 NWSW Lot 4 Within ELMORE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.024 CFS

PLACE OF USE: IRRIGATION Within ELMORE County

T03N R11E S11 Lot 4 NWSW 0.8

0.8 ACRES TOTAL

All places of use are on private land within Homestead Entry Survey (HES) 149.

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: Beneficial Use

EXHIBIT #10

COPY

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	**Subcase No. 63-31736**
	(split from 63-4631B)
Case No. 39576	
	STANDARD FORM 5
	STIPULATED ELEMENTS OF A WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT(s)/OBJECTOR:
Raymond Thurman

for Raymond Thurman
Signature

Date OCT 28/03

PARTICIPANT:
Edgar L. Stevens Water Users Assoc

Lyons D. Woody
Vice-President

Date 10-28-03

CERTIFICATE OF MAILING

I certify that on _____, 2003, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

United States of America
US Dept of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Raymond Thurman
HC 87 Box 594
Featherville, ID 83647

Edgar L. Stevens Water Users Association
Lyons Woody, V.P.
1122 South Carnahan
King Hill, ID 83633

IDWR Repository
P.O. Box 83720
Boise, ID 83720

_____
Signature of person or attorney mailing the form

STANDARD FORM 5 – 63-31736

OBJECTOR:
United States on behalf of the
USDA Forest Service

David L. Negri Date

IDWR Concurrence:

Gene Gibson 10-28-03
Gene Gibson Date
Agent

Nick Spencer 10-28-03
Nick Spencer Date
Deputy Attorney General

STANDARD FORM 5 – 63-31736

06/21/2003

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-31736

NAME AND ADDRESS: RAYMOND TAYLOR THURMAN
HC 87 BOX 594
FEATHERVILLE ID 83647

SOURCE: STEVENS GULCH TRIBUTARY: SOUTH FORK BOISE RIVER

QUANTITY: 0.024 CFS

PRIORITY DATE: 10/05/1899

NBS
CM
LDW

POINT OF DIVERSION:

T03N R11E S11 NWSW Lot 4 Within ELMORE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.024 CFS

PLACE OF USE: IRRIGATION Within ELMORE County

T03N R11E S11 Lot 4 NWSW 0.8

0.8 ACRES TOTAL

All places of use are on private land within Homestead Entry Survey (HES) 149.

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: Beneficial Use