

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

2004 MAR 18 AM 11 53

**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

) **SPECIAL MASTER'S REPORT**

) **FINDINGS OF FACT AND**
) **CONCLUSIONS OF LAW**

) **FOR WATER RIGHTS 63-04005C, 63-**
) **31773, 63-31774**

I. FINDINGS OF FACT

A notice of claim was filed for 63-04005C 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 for the elements of this water right. An objection was filed on January 29, 2003, by the State of Idaho, Department of Lands. Two *Standard Form 5/ Stipulated Elements of Water Rights* signed by the claimant and the objector were filed December 15, 2003, splitting 63-04005C into two rights: 63-31773 and 63-31774.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein and pursuant to the *Standard Form 5*, IT IS RECOMMENDED that water right 63-04005C be **disallowed with prejudice** and 63-31773 and 63-31774 be **decreed** with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED: March 17, 2004.



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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 63-31774

NAME AND ADDRESS: STATE OF IDAHO
DEPARTMENT OF LANDS
954 W JEFFERSON
P O BOX 83720
BOISE, ID 83720-0050

SOURCE: SOUTH FORK BOISE RIVER TRIBUTARY: BOISE RIVER

QUANTITY: 0.11 CFS

PRIORITY DATE: 06/01/1911

POINT OF DIVERSION: T03N R10E S11 LOT 4 (NWSW) Within Elmore County
S12 LOT 9 (SWNWSW)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-15	0.11 CFS

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS
EARLY AS APRIL 1 AND MAY CONTINUE TO AS LATE AS OCTOBER 31,
PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE
OF WATER BEFORE APRIL 15 AND AFTER OCTOBER 15 UNDER THIS REMARK
IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY
OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE
A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE: Irrigation Within Elmore County
T03N R10E S16 LOT 5 (NESW) 12.0
12.0 Acres Total

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.

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

RECOMMENDATION

MAR 18 2004


SPECIAL MASTER

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 63-31773

NAME AND ADDRESS: ELK VALLEY RANCH INC
HC 87 BOX 439
PINE, ID 83647

SOURCE: SOUTH FORK BOISE RIVER TRIBUTARY: BOISE RIVER

QUANTITY: 1.77 CFS

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

PRIORITY DATE: 06/01/1911

POINT OF DIVERSION: T03N R10E S11 LOT 4 (NWSW) Within Elmore County
S12 LOT 9 (SNNWSW)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-15	1.77 CFS
	Stockwater	01-01 TO 12-31	0.09 CFS

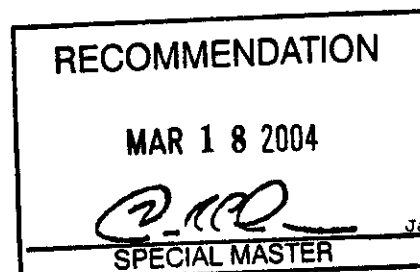
THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS
EARLY AS APRIL 1 AND MAY CONTINUE TO AS LATE AS OCTOBER 31,
PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE
OF WATER BEFORE APRIL 15 AND AFTER OCTOBER 15 UNDER THIS REMARK
IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY
OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE
A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE:	Irrigation	Within Elmore County
	T03N R10E S09 LOT 3 (SESE) 10.0	
	S16 NENE 28.0	LOT 1 (NENE) 3.0
	LOT 4 (SWNE) 21.0	SENE 17.0
	LOT 8 (SESW) 24.0	
	S21 NENE 2.0	NWNE 33.0
	LOT 4 (SWNE) 35.0	LOT 1 (NENW) 18.0
	LOT 5 (NWSE) 7.0	
	198.0 Acres Total	
	Stockwater	Within Elmore County
	Same as Irrigation	

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.

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

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)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 63-04005C
63-31773 63-31774

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 March 18, 2004, with sufficient first-class postage prepaid to the following:

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

ELK VALLEY RANCH INC
Represented by:
JAY R FRIEDLY
340 E 2ND N
MOUNTAIN HOME, ID 83647
Phone: 208-587-4412

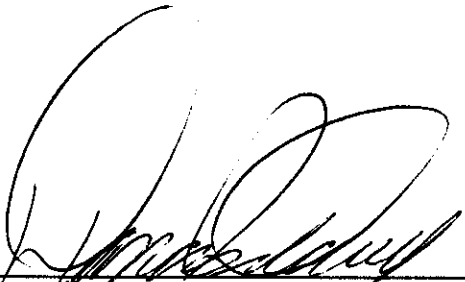
IDAHO DEPARTMENT OF LANDS
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

CERTIFICATE OF MAILING

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STATE OF IDAHO
DEPARTMENT OF LANDS
954 W JEFFERSON
P O BOX 83720
BOISE, ID 83720-0050

ELK VALLEY RANCH INC
HC 87 BOX 439
PINE, ID 83647



DIANA R DELANEY
Deputy Clerk

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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

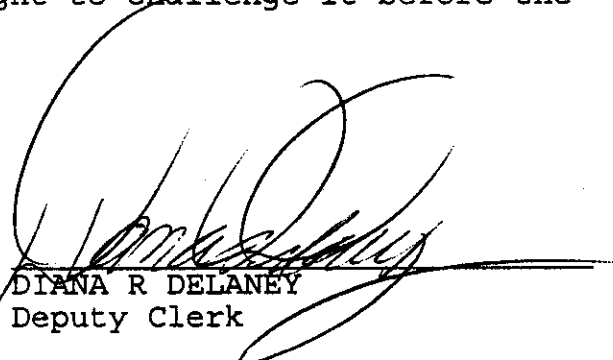
Water Right(s): 63-04005C
63-31773 63-31774

On March 18, 2004, 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 March 18, 2004.


DIANA R DELANEY
Deputy Clerk