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Department of Water Resources

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

2004 MAR 23 PM 12 15

**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 65-03117A, 65-
_____	)	03117B

I. FINDINGS OF FACT

Notices of Claim were filed for the above 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 for the elements of these water rights.

Objections were filed to both rights on June 9, 2000 by the United States through the Department of Interior, Bureau of Reclamation regarding Separate Streams General Provisions. On December 4, 2000 a *Notice of Completed Administrative Proceeding* was filed in 65-03117B, regarding a Substitution of Party. On February 5, 2002, a *Notice of Completed Administrative Proceeding* was filed in 65-03117A, regarding a Substitution of Party. On September 20, 2002, a *Standard Form 5/ Stipulated Elements of a Water Right* for Water Right 65-03117A addressing the Separate Streams General Provisions signed by the claimants and the objector was filed. On January 23, 2004, a *Standard Form 5/ Stipulated Elements of a Water Right* addressing the Separate Streams General Provision signed by the claimant's and the objector was filed for Water Right 65-03117B.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein and pursuant to the *Standard Form 5* forms, IT IS RECOMMENDED that the above water rights be decreed with the elements as set forth in the attached *Recommendation for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

DATED: March 23, 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

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO

FILED
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In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 65-03117A

NAME AND ADDRESS: SCOTT FINDLAY
VICKI FINDLAY
P O BOX 4418
MC CALL, ID 83638

SOURCE: BOULDER CREEK TRIBUTARY: CASCADE RESERVOIR

QUANTITY: 0.40 CFS

PRIORITY DATE: 05/07/1891

POINT OF DIVERSION: T18N R03E S25 SESE Within Valley County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-15	0.40 CFS

PLACE OF USE: Irrigation Within Valley County
T17N R03E S01 LOT 1 (NENE)20.0
20.0 Acres Total

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).

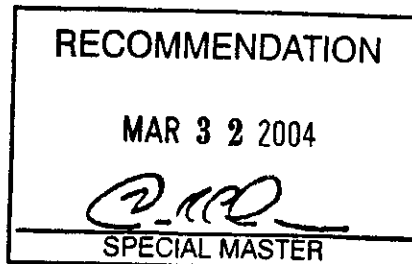
RULE 54(b) CERTIFICATE

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.

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

SRBA PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 65-03117A File Number: 00417

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Jan-12-2004



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 65-03117B

NAME AND ADDRESS: ALAN W BUSBY
PO BOX 2021
MC CALL, ID 83638

SOURCE: BOULDER CREEK TRIBUTARY: CASCADE RESERVOIR

QUANTITY: 0.77 CFS

PRIORITY DATE: 05/07/1891

POINT OF DIVERSION: T18N R03E S25 SESE Within Valley County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-15	0.77 CFS

PLACE OF USE: Irrigation Within Valley County
T18N R03E S36 NWSE 34.0 SWSE 14.0
48.0 Acres Total

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.

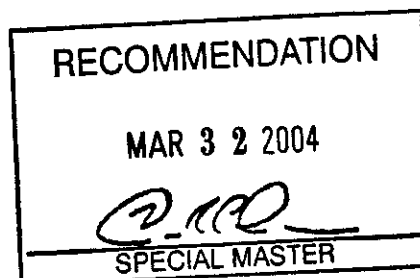
This water right shall be administered as being from a
separate source pursuant to Basin 65 General Provision No. 3.
If the holder of this right seeks to change the right pursuant
to Idaho Code Section 42-222 or successor statute, nothing in
this general provision shall preclude any other person or entity
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.

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): 65-03117A
65-03117B

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 23, 2004, with sufficient first-class postage prepaid to the following:

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

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

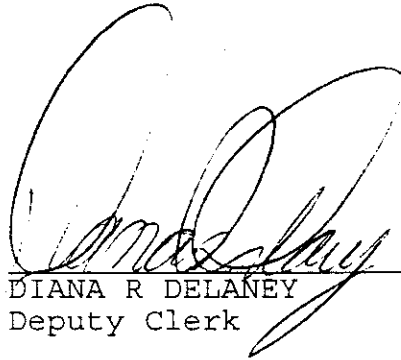
USDI BUREAU OF RECLAMATION
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

CERTIFICATE OF MAILING

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03/23/04

SCOTT FINDLAY
VICKI FINDLAY
P O BOX 4418
MC CALL, ID 83638

ALAN W BUSBY
PO BOX 2021
MC CALL, ID 83638



DIANA R DELANEY
Deputy Clerk

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

2004 MAR 23 PM 12 15

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

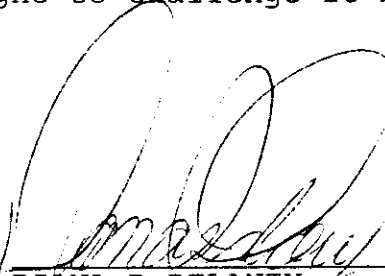
Water Right(s): 65-03117A
65-03117B

On March 23, 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 23, 2004.



DIANA R DELANEY
Deputy Clerk