

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED
2004 MAR 29 PM 4 54

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 65-03050, 65-
	)	03054, 65-03055, 65-03056, 65-03057, 65-
	)	17885, 65-17900, 65-17901, 65-17902, 65-
	)	17910, 65-17911.

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 the rights on January 17, 2002, by the United States through the Department of Interior, Bureau of Reclamation regarding Separate Streams General Provisions. On December 26, 2003, *Standard Form 5/ Stipulated Elements of a Water Right* forms for the above rights addressing Separate Streams General Provisions signed by the claimants and the objector were filed. I.D.W.R. concurred in the *Standard Form 5* forms.

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

In Re SRBA)
)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 65-03050
(SEE ATTACHED EXHIBIT A)

CERTIFICATE OF MAILING

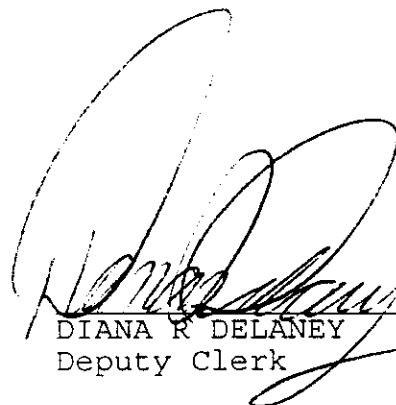
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on March 29, 2004, with sufficient first-class postage prepaid to the following:

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

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

CHRIS A MACAW
REBECCA MACAW
19200 SWEET OLA HWY
OLA, ID 83657
Phone: 208-584-3700

CERTIFICATE OF MAILING



DIANA R DELANEY
Deputy Clerk

PAGE 1
03/29/04

Exhibit A

Subcase Nos:

65-03050
65-03054
65-03055
65-03056
65-03057
65-17885
65-17900
65-17901
65-17902
65-17910
65-17911

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

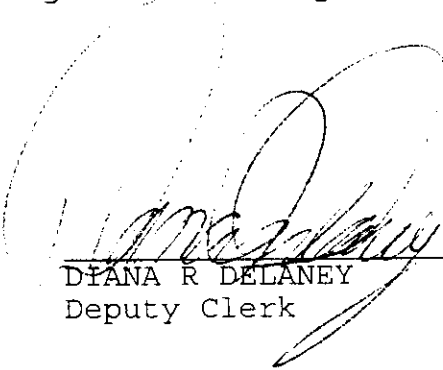
Water Right(s): 65-03050
(SEE ATTACHED EXHIBIT A)

On March 29, 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 29, 2004.



DIANA R DELANEY
Deputy Clerk

Exhibit A

Subcase Nos:

65-03050
65-03054
65-03055
65-03056
65-03057
65-17885
65-17900
65-17901
65-17902
65-17910
65-17911

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 65-03055

NAME AND ADDRESS: CHRIS A MACAW
REBECCA MACAW
19200 SWEET OLA HWY
OLA, ID 83657

SOURCE: SOLDIER CREEK TRIBUTARY: LITTLE SQUAW CREEK

QUANTITY: 0.17 CFS

PRIORITY DATE: 05/01/1882

POINT OF DIVERSION: T09N R01E S12 SWNW Within Gem County

PURPOSE AND			
PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	0.17 CFS

PLACE OF USE:	Irrigation		Within Gem County
	T09N R01E S11	NENE 4.0	SENE 1.0
	S12	SWNW 3.0	
	8.0 Acres Total		

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

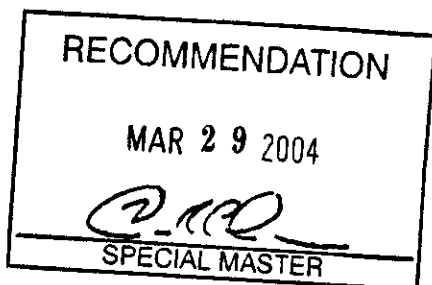
Basin 65 General Provisions No. 3, the Separate Streams General Provision, does not apply to appropriations of water after October 18, 1977.

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