

2004 APR 7 PM 2 39

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	)	AMENDED SPECIAL MASTER'S
	)	REPORT
Case No. 39576	)	
	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHT 65-07061

I. FINDINGS OF FACT

A notice of claim was filed for the above right 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.

On January 16th, 17th and 18th 2002, *Objections* were filed to the right by the Idaho Department of Lands, the United States Bureau of Reclamation (regarding Basin 65 General Provision Issues) and the United States Bureau of Land Management, respectively. The United States USDA Forest Service filed a response to *Objection 1* on February 14th, 2002. On June 27th, 2002 a *Standard Form 5* signed by the Claimant and the Idaho Department of Lands and the Bureau of Land Management was filed. The USDA Forest Service did not sign the *Standard Form 5* but filed a *Notice by the United States of Withdrawal of Response to Objection* on July 1, 2002. The *Notice* was treated as a *Motion* and was granted. On March 25, 2003, pursuant to the *Standard Form 5*, a *Special Master Report and Recommendation* was filed.

On April 7, 2003, a *Notice of Completed Administrative Proceeding – Substitution of Party, Corporation Name Change*, was filed. On April 17, 2003, the SRBA District Court Special Master was notified by the United States Bureau of Reclamation that the *Standard Form Five* did not resolve the General Provisions, Separate Streams issue. On April 17, 2003 an *Order Withdrawing Special*

Master's Report and Recommendation was filed. On January 7, 2004, a *Standard Form 5/ Stipulated Elements of a Water Right* signed by the claimant and the United States Department of Justice, resolving the General Provisions, Separate Streams issue was filed.

II. CONCLUSIONS OF LAW

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

DATED: April 7, 2004.



THOMAS R CUSHMAN
Special Master
Snake River Basin Adjudication

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

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

In Re SRBA)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Case No. 39576)
Water Right 65-07061

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NAME AND ADDRESS: VAN DEUSEN RANCH INC
PO BOX 68
EMMETT, ID 83617

SOURCE: SUCKER CREEK TRIBUTARY: BIG WILLOW CREEK

QUANTITY: 3.00 CFS
450.00 AFY

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

THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER
DESCRIBED FOR STOCK WATER PURPOSES AT A POINT OF MEASUREMENT
WHERE THE DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED.

PRIORITY DATE: 01/19/1969

POINT OF DIVERSION: T08N R01W S16 SWNE Within Gem County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS
	Irrigation from Storage	04-01 TO 10-30	450.00 AFY
	Diversion to Storage	11-01 TO 01-31	1.00 CFS
	Irrigation Storage	11-01 TO 03-30	450.00 AFY

PLACE OF USE: Irrigation Storage Within Gem County
Same as Irrigation from Storage

Irrigation from Storage		Within Gem County	
T07N R02W S02 LOT 1	(NENE) 17.0	LOT 2	(NWNE) 3.3
LOT 3	(NENW) 25.0		SNNW 20.0
	SENW 5.3		NWSW 4.0
T08N R01W S19	SWNE 1.3		SENE 8.4
	NESW 20.0	LOT 3	(NWSW) 7.0
LOT 4	(SWSW) 23.0		SESW 40.0
	NESE 15.0		NWSE 25.0
	SWSE 9.9		SESE 1.3
S30	NENW 24.0	LOT 1	(NWNW) 35.0
LOT 2	(SNNW) 38.0		SENN 16.0
	NESW 16.0	LOT 3	(NWSW) 38.0
LOT 4	(SWSW) 38.0		SESW 32.0
	SWSE 7.0		
S31	NWNE 28.0		SWNE 2.4
	SENE 19.0		NENW 6.3
LOT 1	(NWNW) 24.0		NESE 4.4
S32	SNNW 12.0		SENN 0.3
	NESW 28.0		NWSW 24.0
	SESW 5.6		NWSE 8.0
	SWSE 15.0		
R02W S25	NENE 1.2		SENE 19.0
	SESW 7.0		NESE 38.0
	NWSE 8.4		SWSE 36.0
	SESE 39.0		
S35	SWNE 2.4		SENE 27.0
	SESW 12.0		NESE 39.0
	NWSE 27.0		SWSE 29.0
	SESE 39.0		

PLACE OF USE (continued)

S36	NENE 39.0	NWNE 39.0
	SWNE 37.0	SENE 14.0
	NENW 33.0	NWNW 2.1
	SWNW 39.0	SENW 39.0
	NESW 30.0	NWSW 39.0
	SWSW 19.0	SESW 1.7
	NWSE 2.9	

1305.2 Acres Total

Stockwater	Within Gem County
Same as Irrigation from Storage	
Diversion to Storage	Within Gem County
Same as Irrigation from Storage	

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 447 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 1305.2 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-02499, 65-02498, 65-12382, 65-02025, 65-02953, 65-02016.

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

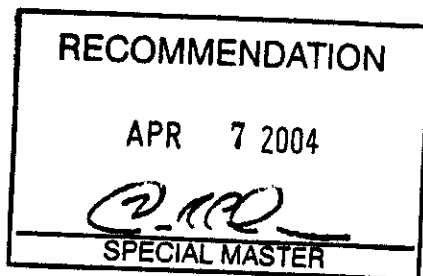
Basin 65 General Provisions No. 3, the Separate Streams General Provision, does not apply to appropriations of water after October 18, 1977.

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)

Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

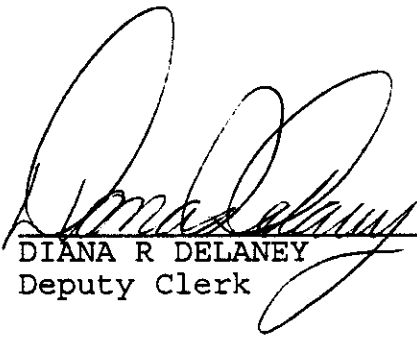
Water Right(s): 65-07061

On April 07, 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 April 07, 2004.



DIANA R DELANEY
Deputy Clerk

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)

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_____)

CERTIFICATE OF MAILING

Water Right(s): 65-07061

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 April 07, 2004, with sufficient first-class postage prepaid to the following:

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

IDAHO DEPARTMENT OF LANDS

Represented by:
CLIVE STRONG
NATURAL RESOURCES
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720-0010
Phone: 208-334-2400

UNITED STATES OF AMERICA

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

CERTIFICATE OF MAILING

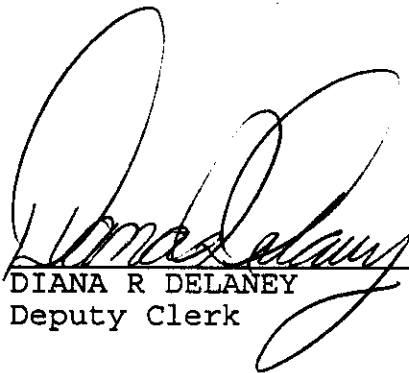
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UNITED STATES OF AMERICA
Represented by:
DAVID W GEHLERT
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATRUAL RESOURCE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

DAVID LITTLE FARMS, INC
Represented by:
JOHN K. SIMPSON
205 N 10TH ST, STE 520
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

VAN DEUSEN RANCH INC
PO BOX 68
EMMETT, ID 83617
Phone: 208-365-2220


DIANA R DELANEY
Deputy Clerk