

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

2004 APR 14 PM 3 26

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: See Exhibit A
	)	(Subcase List B65ALCATT)

I. FINDINGS OF FACT

A notice of claim was filed for the above listed water 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 or abstract for the elements of these water rights.

On June 9, 2000, the United States of America, Bureau of Reclamation filed a *Motion to File Late Objections* in multiple subcases. The Motion was granted on July 28, 2000. The objections were filed to "General Provisions Basin 65 Irrigation & Other Part II (3) Separate Streams Administration." A Show Cause Hearing was set for January 27, 2004. On January 27, 2004, this Court filed correspondence dated January 26, 2004, received from the claimant's attorney stating that claimant did not oppose the addition of the General Provision separate streams language to the "other provisions necessary" element of these water rights.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that the water rights listed on attached Exhibit A be decreed with the elements as set forth in the attached *Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

DATED April 14, 2004.


THOMAS R. CUSHMAN
Special Master
Snake River Basin Adjudication

EXHIBIT A

Subcase Nos:

65-01967
65-01970
65-01971
65-01981
65-01983
65-02043
65-03124X
65-09533
65-09534
65-09535
65-10537

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In Re SRBA
Case No. 39576

Water Right(s): 65-01967
(SEE ATTACHED EXHIBIT A)

Julie Murphy
JULIE MURPHY
Deputy Clerk

Exhibit A

Subcase Nos:

65-01967
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STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 65-01967
(SEE ATTACHED EXHIBIT A)

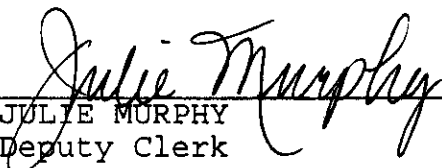
CERTIFICATE OF MAILING

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 April 14, 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 & NATRUAL RESOURCE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

A L CATTLE INC
PO BOX 608
EMMETT, ID 83617
Phone: 208-365-2320


JULIE MURPHY
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
04/14/04

Exhibit A

Subcase Nos:

65-01967
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DISTRICT COURT - SRBA
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2004 APR 14 PM 3 27

In Re SRBA)
Case No. 39576)

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

Water Right 65-02043

NAME AND ADDRESS: A L CATTLE INC
PO BOX 608
EMMETT, ID 83617

SOURCE: BIG WILLOW CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 1.62 CFS

THIS RIGHT SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE WHEN
MEASURED AT THE FIELD HEADGATE.

PRIORITY DATE: 02/23/1906

POINT OF DIVERSION: T09N R01W S01 NWSW Within Payette County
S11 SWSW
NENE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	1.62 CFS

PLACE OF USE:	Irrigation	Within Gem County
	T09N R01W S02 NESE 3.3 SESE 18.5	
	S11 NENE 9.1 SWNE 5.5	
	SENE 10.9 NWSE 6.7	
	54.0 Acres Total	

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

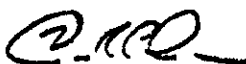
Basin 65 General Provisions No. 3, the Separate Streams
General Provision, does not apply to appropriations of water
after October 18, 1977.

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).

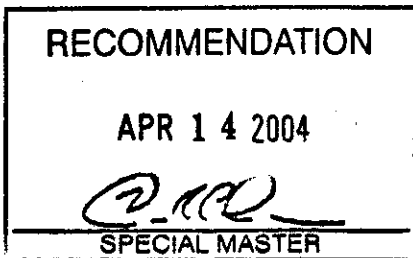
RECOMMENDATION

APR 14 2004


SPECIAL MASTER

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