

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED
2004 APR 14 PM 3 28

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 RIGHT: 65-22328
	)	

I. FINDINGS OF FACT

A notice of claim was filed for the above listed water 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 or abstract for the elements of this water right.

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 28, 2004. The claimant did not appear at hearing. The United States Bureau of Reclamation Motioned, on record, to add General Provision separate streams language to the "other provisions necessary". The *Motion* was granted on record. An *Amended Director's Report* was filed on February 24, 2004. The *Amended Director's Report* reflects a decrease in quantity, therefore does not put additional burden on the stream system. An *Objection* deadline was set for March 29, 2004. No *Objections* were filed and the time for filing has now expired.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, and pursuant to the *Amended Director's Report* and the *Motion* at hearing, IT IS RECOMMENDED that water right 65-22328 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

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 *[Signature]*
2004 APR 14 PM 3 28

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 65-22328

NAME AND ADDRESS: AMY HEFFNER
RANDY HEFFNER
14 HILL CREEK RD
HORSESHOE BEND, ID 83629

SOURCE: PORTER CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 1.49 CFS

PRIORITY DATE: 06/01/1908

POINT OF DIVERSION: T07N R02E S12 NWSE Within Boise County
R03E S07 SWNW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	1.49 CFS

PLACE OF USE:	Irrigation	Within Boise County
	T07N R02E S12 NESW 31.0 SESW 6.0	SWSW 17.0
	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).

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.

RECOMMENDATION

APR 14 2004

[Signature]
SPECIAL MASTER

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

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In Re SRBA)
)
Case No. 39576)
)

)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 65-22328

On April 14, 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 14, 2004.



JULIE MURPHY
Deputy Clerk

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In Re SRBA)
)
Case No. 39576)
)

CERTIFICATE OF MAILING

Water Right(s) : 65-22328

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 & NATURAL RESOURCE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

AMY HEFFNER
RANDY HEFFNER
14 HILL CREEK RD
HORSESHOE BEND, ID 83629
Phone: 208-793-2898

CERTIFICATE OF MAILING

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04/14/04

AMY HEFFNER
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Phone: 208-793-2898



JULIE MURPHY
Deputy Clerk