

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     | ) | <b>SPECIAL MASTER'S REPORT</b>         |
|                | ) |                                        |
| Case No. 39576 | ) | <b>FINDINGS OF FACT AND</b>            |
|                | ) | <b>CONCLUSIONS OF LAW</b>              |
|                | ) |                                        |
|                | ) | <b>FOR WATER RIGHTS: See Exhibit A</b> |
|                | ) | <b>(Subcase List B65ALCATT)</b>        |

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**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

2004 APR 14 PM 3 26

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  
65-01970  
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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): 65-01967  
(SEE ATTACHED EXHIBIT A)

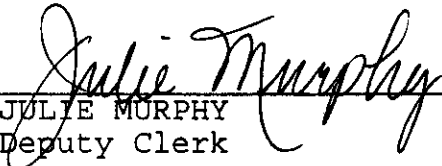
CERTIFICATE OF MAILING

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:

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

2004 APR 14 PM 3 27

Water Right 65-09534

SOURCE: SPRINGS      TRIBUTARY: BIG WILLOW CREEK

QUANTITY: 0.33 CFS  
20.10 AFY

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF .33 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 20.10 AF. COMBINED RIGHT NOS. : 65-9533 & 65-9535.

PRIORITY DATE: 08/04/1910

POINT OF DIVERSION: T10N R01W S26 SESE Within Washington County

| PURPOSE AND PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY  |
|----------------------------|----------------|----------------|-----------|
|                            | Stockwater     | 01-01 TO 12-31 | 0.33 CFS  |
|                            |                |                | 20.10 AFY |

|               |               |                          |
|---------------|---------------|--------------------------|
| PLACE OF USE: | Stockwater    | Within Washington County |
|               | T10N R01W S26 | SESE                     |
|               | S35           | NENE                     |

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

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).

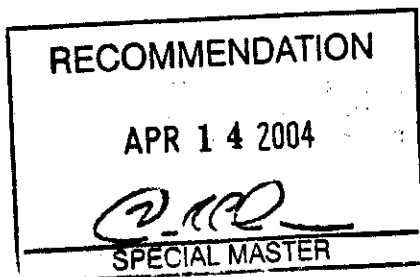
## RECOMMENDATION

APR 14 2004

E. M. C.  
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