

HOFSTETTER LAW OFFICE

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April 28, 2004

Via Facsimile (208-736-2121) and U.S. Mail

Special Master Tom Cushman
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, Idaho 83303-2707

Re: Subcase No. 65-04033

Dear Special Master Cushman:

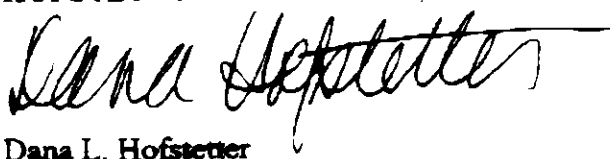
I have identified the following apparent clerical error on the Special Master's Report and Recommendation for Subcase No. 65-04033 that was issued on April 14, 2004:

A provision has been added regarding the stock water use quantity not having been determined to be historically beneficially used. This provision appears to have been added in error as it was not included in the Standard Form 5 and this right was previously decreed in the *Payette Adjudication* without this provision.

As you know, the Motion to Alter Amend deadline for this Recommendation is May 28, 2004. If it would be necessary to file a Motion to Alter Amend for correction of this error, please advise me prior to that deadline. I enclose with this letter, a copy of the Recommendation with the clerical error indicated. Thank you for your attention to this matter.

Sincerely,

HOFSTETTER LAW OFFICE, LLC



Dana L. Hofstetter

Enclosures

cc: Susan Hamlin via facsimile

Island Capitol via facsimile

D:/4004.1/5833

DISTRICT COURT-SR3A
TWIN FALLS CO., IDAHO
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SR3A

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

2004 APR 14 PM 3 25

Case No. 39576

Water Right 65-04033

NAME AND ADDRESS: ISLAND CAPITOL LLC
1409 S 2ST ST
MERIDIAN, ID 83642

SOURCE: SNOWFLAKE CREEK TRIBUTARY NORTH FORK PAYETTE RIVER

QUANTITY: 0.35 CFS

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

PRIORITY DATE: 07/10/1990

POINT OF DIVERSION: T15N R03E S02 SE1/4 Within Valley County

PURPOSE AND
PERIOD OF USE

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	04-15 TO 10-15	1.90 CFS
Stockwater	01-01 TO 12-31	0.35 CFS

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS
EARLY AS APRIL 15 AND MAY CONTINUE TO AS LATE AS OCTOBER 31.
PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED THE USE
OF WATER AFTER OCTOBER 15 UNDER THIS RIGHT IS SUBORDINATE TO ALL
WATER RIGHTS HAVING NO SUBORDINATED EARLY OF LATE IRRIGATION USE
AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS
ENTERED FOR THIS RIGHT.

PLACE OF USE:

Location	Within Valley County
T15N R03E S01	SW1/4 12.0
	SE1/4 40.0
S02	SE1/4 40.0
	SW1/4 40.0
S12	SW1/4 40.0
	SW1/4 14.0
129.0 Acres Total	

Stockwater

Within Valley County

Same as Irrigation

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 45 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT

~~THE QUANTITY OF WATER DESIGNATED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE~~

Basin 65 General Provisions No. 1, 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. 1.
If the holder of this right seeks to change the right pursuant
to Idaho Code Section 42-122 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

RECOMMENDATION

APR 14 2004

SPECIAL MASTER

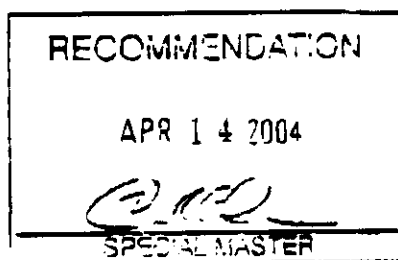
SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

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

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FAX COVER SHEET

DATE: April 28, 2004

TO:	Special Master Cushman	FAX:	208-736-2121
CC:	Susan Hamlin		327-5400
	Island Capitol		288-0216

FROM: Dana Hofstetter

RE: Subcase No. 65-04033

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ORIGINAL BY MAIL: YES X NO