

2004 MAY 6 PM 1 50

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: 65-2971
_____	)	

I. FINDINGS OF FACT

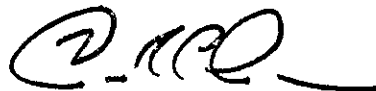
A notice of claim was filed for the above listed water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

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." Subsequently, a *Standard Form 5* was filed in the above listed subcase on September 20, 2002.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, and pursuant to the *Standard Form 5*, IT IS RECOMMENDED that the above listed 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 May 6, 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

2004 MAY 6 PM 1 51

In Re SRBA) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 65-02971

NAME AND ADDRESS: D JOHN CAREY
15320 PEACH HILL RD
SARATOGA, CA 95070

SOURCE: COLD CREEK TRIBUTARY: BOULDER CREEK

QUANTITY: 1.24 CFS
245.00 AFY

THIS RIGHT WHEN COMBINED WITH 65-03118 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE AT HEADGATE

PRIORITY DATE: 12/01/1966

POINT OF DIVERSION: T17N R03E S01 NWSE Within Valley County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation from Storage	04-15 TO 10-15	245.00 AFY
	Irrigation	04-15 TO 10-15	1.24 CFS
	Fish Prop. Storage	01-01 TO 12-31	245.00 AFY
	Irrigation Storage	01-01 TO 12-31	245.00 AFY

PLACE OF USE:	Irrigation	Within Valley County
	Same as Irrigation	
	Irrigation Storage	Within Valley County
	Same as Irrigation Storage	
	Irrigation from Storage	Within Valley County
	T17N R03E S01	NESW 31.0
	SENW 22.0	
	NWSE 9.0	
	62.0 Acres Total	
	Fish Prop. Storage	Within Valley County
	Same as Irrigation	

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.

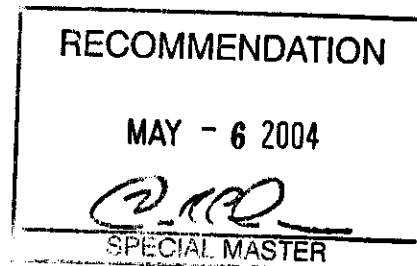
This water right shall be administered as being from a separate source pursuant to Basin 65 General Provision No. 3. If the holder of this right seeks to change the right pursuant to Idaho Code Section 42-222 or successor statute, nothing in this general provision shall preclude any other person or entity 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

CERTIFICATE OF MAILING

Water Right(s): 65-02971

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 May 06, 2004, with sufficient first-class postage prepaid to the following:

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

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

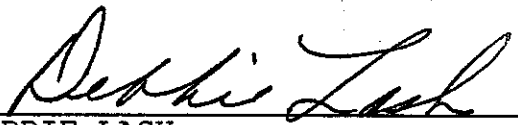
USDI BUREAU OF RECLAMATION
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

CERTIFICATE OF MAILING

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05/06/04

D JOHN CAREY
C/O BRIAN MC MAHAN
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MCCALL, ID 83638
Phone: 208-634-7641

D JOHN CAREY
15320 PEACH HILL RD
SARATOGA, CA 95070
Phone: 408-867-9262


DEBBIE LASH
Deputy Clerk

2004 MAY 6 PM 1 51

In Re SRBA
Case No. 39576

Water Right(s) : 65-02971


DEBBIE LASH
Deputy Clerk