

Roseberry Irrigation District

Dana L. Hofstetter, ISB # 3867
HOFSTETTER LAW OFFICE, L.L.C.
608 West Franklin Street
Boise, ID 83702
Telephone: (208) 424-7800
Facsimile: (208) 424-8774

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR TWIN FALLS COUNTY

	)	Subcase Nos. 65-2585, 65-3114, 65-3115,
	)	65-3116, and 65-22587
In Re SRBA	)	
	)	Motion to Alter or Amend
Case No. 39576	)	
	)	
_____	)	

The Roseberry Irrigation District, by and through its counsel of record, Dana L. Hofstetter, hereby moves this Court, pursuant to *SRBA Administrative Order No. 1*, Section 13a, to alter or amend the *Special Master's Recommendations* in the above-referenced Subcases.

Subcase No. 65-2585

Joe Eld is listed as an owner of this water right along with the Roseberry Irrigation District, instead of being listed as an addressee on behalf of the Roseberry Irrigation District. Accordingly, the name and address element of this water right should be corrected as indicated in Exhibit A attached hereto. Further, the source, Willow Creek, is listed as tributary to Cascade

Reservoir. However, Willow Creek actually is tributary to the North Fork of the Payette River. Accordingly, the source element of this water right also should be corrected as indicated in Exhibit A hereto.

Also, it is noted that the written Conclusions of Law in the *Special Master's Report* indicate that this water right, together with the other Roseberry Irrigation District water rights, should provide for irrigation of a total of 2719 acres. However, the actual description of the elements of this water right in the *Special Master's Recommendation* correctly indicates that the total amount of irrigated acres in combination with this right is 2826. The Roseberry Irrigation District requests that the Conclusions of Law in the *Special Master's Report* be corrected to conform to the *Special Master's Recommendation* in this regard.

Subcase No. 65-3114

Joe Eld is listed as an owner of this water right along with the Roseberry Irrigation District, instead of being listed as an addressee on behalf of the Roseberry Irrigation District. Accordingly, the name and address element of this water right should be corrected as indicated in Exhibit B attached hereto. Further, the source, Boulder Creek, is listed as tributary to Cascade Reservoir. However, Boulder Creek actually is tributary to the North Fork of the Payette River. Accordingly, the source element of this water right also should be corrected as indicated in Exhibit B hereto.

Subcase No. 65-3115

Joe Eld is listed as an owner of this water right along with the Roseberry Irrigation District, instead of being listed as an addressee on behalf of the Roseberry Irrigation District. Accordingly, the name and address element of this water right should be corrected as indicated in Exhibit C attached hereto. Further, the language regarding the water exchange with the Boulder

Irrigation Company is included in the *Special Master's Recommendation* although the *Objection* filed by the Roseberry Irrigation District previously had requested that this language be deleted. This exchange arrangement was not referenced in the *Payette Decree* for this water right and it concerns a matter of private contract between the parties.

Subcase No. 65-3116

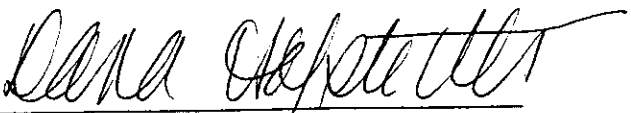
Joe Eld is listed as an owner of this water right along with the Roseberry Irrigation District, instead of being listed as an addressee on behalf of the Roseberry Irrigation District. Accordingly, the name and address element of this water right should be corrected as in Exhibit D attached hereto. Further, the source, Boulder Creek, is listed as tributary to Cascade Reservoir. However, Boulder Creek actually is tributary to the North Fork of the Payette River. Accordingly, the source element of this water right also should be corrected as indicated in Exhibit D hereto.

Subcase No. 65-22587

This is an incidental stock water right associated with irrigation Water Right No. 65-3115, which has been determined to have a priority date of January 12, 1917 in the *Special Master's Report* issued April 8, 2004. Accordingly, the priority date element of this water right should be corrected as indicated in Exhibit E attached hereto. Further, only one point of diversion should be listed as indicated in Exhibit E.

DATED this 25th day of May, 2004.

HOFSTETTER LAW OFFICE, LLC

By 
Dana L. Hofstetter

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of May, 2004, I caused to be served copies of the foregoing **Motion to Alter or Amend** by depositing a copy thereof in the U.S. mail, postage prepaid, upon:

Joe Eld	Lyle Points
2554 East Roseberry	P.O. Box 53
McCall, Idaho 83638	Donnelly, Idaho 83615

Roseberry Irrigation District
P.O. Box 366
Donnelly, Idaho 83615

Charles F. McDevitt
P.O. Box 2564
Boise, Idaho 83701

Idaho Department of Water Resources
Document Depository
P O. Box 83720
Boise, Idaho 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
P. O. Box 44449
Boise, Idaho 83711-4449

United States Department of Justice
Environment & Natural Resources
550 West Fort Street, MSC 033
Boise, Idaho 83724

David Gehlert
Environment and Natural Resource Division
U.S. Department of Justice
999 18th Street, Suite 945
Denver, CO 80202


Dana L. Hofstetter

D:\3003.1\5963

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

DISTRICT COURT - SRE
TWIN FALLS CO. IDAH
FILED

2004 APR 13 AM 9 31

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 65-02585

NAME AND ADDRESS: ROSEBERRY IRRIGATION DISTRICT
P O BOX 366
DONNELLY, ID 83615
Roseberry Irrigation District
JOE ELD
2554 E ROSEBERRY
MC CALL, ID 83638

SOURCE: WILLOW CREEK TRIBUTARY: ~~CASCADE RESERVOIR~~ North Fork Payette River ✓
QUANTITY: 5.00 CFS
PRIORITY DATE: 05/10/1954
POINT OF DIVERSION: T16N R03E S11 SWSSE Within Valley County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-15	5.00 CFS

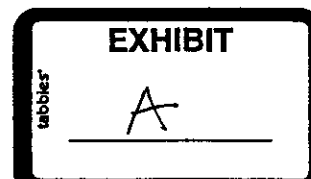
PLACE OF USE:
USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2826 ACRES WITHIN THE BOUNDARIES OF THE ROSEBERRY IRRIGATION DISTRICT IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-03114, 65-03115, 65-03116
The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) (2003) and authorized pursuant to I.C. Section 42-1411 (2)(b) (2003). The data comprising the digital boundary are incorporated herein by reference and are stored on a cd-rom disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

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).



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED

2004 APR 13 AM 9 30

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 65-03114

NAME AND ADDRESS: ROSEBERRY IRRIGATION DISTRICT
PO BOX 166
DONNELLY, ID 83615
c/o Roseberry Irrigation District
JOE ELD
2554 E ROSEBERRY
MC CALL, ID 83638

SOURCE: BOULDER CREEK TRIBUTARY: ~~CASCADE RESERVOIR~~ North Fork Payette River ✓
QUANTITY: 50.00 CFS
PRIORITY DATE: 06/25/1902
POINT OF DIVERSION: T17N R03E S13 SENWSE Within Valley County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Irrigation 04-15 TO 10-15 50.00 CFS

PLACE OF USE:

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 2826 ACRES WITHIN THE
BOUNDARIES OF THE ROSEBERRY IRRIGATION DISTRICT IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-03115, 65-03116,
65-02585.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 2.719 ACRES
WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION
SEASON

The boundary encompassing the place of use for this water right
is described with a digital boundary as defined by I.C. Section
42-202B(2) (2003) and authorized pursuant to I.C. Section 42-1411
(2)(h) (2003). The data comprising the digital boundary are
incorporated herein by reference and are stored on a cd-rom disk
issued in duplicate originals on file with the SRBA District
Court and the Idaho Department of Water Resources. A map
depicting the place of use is attached hereto to illustrate the
place of use described by the digital boundary.

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).

EXHIBIT

B

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
_____) Water Right 65-03115

2004 APR 13 AM 9 30

NAME AND ADDRESS: ROSEBERRY IRRIGATION DISTRICT
PO BOX 366
DONNELLY, ID 83615
c/b Roseberry Irrigation District
JOE ELD
2554 E ROSEBERRY
MC CALL, ID 83638

SOURCE: BOULDER LAKE TRIBUTARY: BOULDER CREEK

QUANTITY: 1207.00 AFY

PRIORITY DATE: 01/12/1917

POINT OF DIVERSION: T17N R03E S13 SENWSE (Rediversion) Within Valley County
T18N R04E S27 NESE

~~WHEN AVAILABLE 161 ACRES FEET OF WATER FROM BOULDER LAKE OR 110
ACRE FEET AT HEADGATE OF WATER DIVERTED UNDER THIS RIGHT IS
EXCHANGED WITH WATER FROM LOUIS LAKE UNDER RIGHT NO. 65-03916.
WATER DIVERTED UNDER THIS RIGHT IS USED WITHIN THE BOULDER
IRRIGATION COMPANY AND THE ROSEBERRY IRRIGATION DISTRICT
BOUNDARIES.~~

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation from Storage	04-15 TO 10-15	1207.00 AFY
	Irrigation Storage	01-01 TO 12-31	1207.00 AFY

PLACE OF USE:

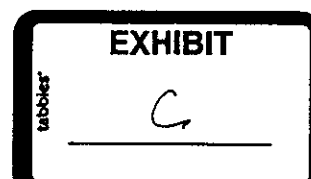
USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 2826 ACRES WITHIN THE
BOUNDARIES OF THE ROSEBERRY IRRIGATION DISTRICT IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-03114, 65-03116,
65-02585.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 2.719 ACRES
WITHIN THE BOUNDARIES OF THE ROSEBERRY IRRIGATION DISTRICT IN
A SINGLE IRRIGATION SEASON
The boundary encompassing the place of use for this water right
is described with a digital boundary as defined by I.C. Section
42-202B(2) (2003) and authorized pursuant to I.C. Section 42-1411
(2) (h) (2003). The data comprising the digital boundary are
incorporated herein by reference and are stored on a cd-rom disk
issued in duplicate originals on file with the SRBA District
Court and the Idaho Department of Water Resources. A map
depicting the place of use is attached hereto to illustrate the
place of use described by the digital boundary.

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

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 PUSUANT TO BASIN 65 GENERAL PROVISION NO. 1.
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



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 APR 13 AM 9 30

In Re SRBA

Case No. 19576

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

Water Right 65-03116

NAME AND ADDRESS:

ROSEBERRY IRRIGATION DISTRICT

PO BOX 366

DONNELLY, ID 83615

c/ Roseberry Irrigation District

2554 E ROSEBERRY

MC CALL, ID 83638

SOURCE:

BOULDER CREEK

TRIBUTARY: ~~CASCADE RESERVOIR~~

North Fork Payette River

QUANTITY:

48.72 CFS

PRIORITY DATE:

01/12/1917

POINT OF DIVERSION:

T17N R03E S13

SENWSE

Within Valley County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

Irrigation

04-15 TO 10-15

48.72 CFS

PLACE OF USE:

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 2826 ACRES WITHIN THE
BOUNDARIES OF THE ROSEBERRY IRRIGATION DISTRICT IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-03114, 65-03115,
65-02585.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 2,719 ACRES
WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION
SEASON

The boundary encompassing the place of use for this water right
is described with a digital boundary as defined by I.C. Section
42-2028(2) (2003) and authorized pursuant to I.C. Section 42-1411
(2) (h) (2003). The data comprising the digital boundary are
incorporated herein by reference and are stored on a cd-rom disk
issued in duplicate originals on file with the SRBA District
Court and the Idaho Department of Water Resources. A map
depicting the place of use is attached hereto to illustrate the
place of use described by the digital boundary.

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 42-122 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.

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).

EXHIBIT

tabbitt

D

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

DISTRICT COURT-SRB
TWIN FALLS CO, IDAH
FILED

2004 APR 13 AM 9 30

In Re SRBA
Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 65-22587

NAME AND ADDRESS: ROSEBERRY IRRIGATION DISTRICT
C/O JOE ELD
2554 E ROSEBERRY
MC CALL, ID 83638

ROSEBERRY IRRIGATION DISTRICT
PO BOX 166
DONNELLY, ID 83615

SOURCE: BOULDER LAKE TRIBUTARY: BOULDER CREEK

QUANTITY: 134.00 AFY

PRIORITY DATE: ~~03/06/1999~~ January 12, 1917

POINT OF DIVERSION: T17N R01E S13 NWSE (Rediversion) Within Valley County
~~NWSE (Rediversion)~~
T18N R04E S27 NESE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater Storage	01-01 TO 12-31	134.00 AFY
	Stockwater from Storage	01-01 TO 12-31	134.00 AFY

PLACE OF USE:
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.

Stockwater use is for 10,000 range cattle.

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).

