

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

2004 JUN 11 AM 10 16

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
	)	
	)	FINDINGS OF FACT AND
Case No. 39576	)	CONCLUSIONS OF LAW;
	)	REGARDING MOTION TO SET ASIDE
	)	PARTIAL DECREE
	)	
	)	FOR WATER RIGHT 63-23126

I. FINDINGS OF FACT

A notice of claim was filed for this 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.

The SRBA District Court received correspondence from the claimant, Velma Marchbanks, regarding an incorrect legal description in the Director's Report. A hearing was held on May 26, 2004, in Boise, Idaho. Velma Marchbanks was present pro se and Roxanne Brown appeared on behalf of the Idaho Department of Water Resources. Ms. Brown testified that a legal description inadvertently was change during the claims process and that the legal description for point of diversion and place of use would be better described as T05N, R03W, S 31, NWNW.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein, IT IS RECOMMENDED that the partial decree for water right 63-23126 be amended to correct the legal description per the attached *Amended Partial Decree Pursuant to I.R.C.P. 60(b)*.

DATED: June 9, 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

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AMENDED

In Re SRBA)
)
Case No. 39576)
_____)

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

Water Right 63-23126

NAME AND ADDRESS: J A MARCHBANKS
VELMA MARCHBANKS
19664 PURPLE SAGE RD
CALDWELL, ID 83605

SOURCE: GROUNDWATER

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 06/30/1922

POINT OF DIVERSION: T05N R03W S31 NWNW Within Canyon County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic 1 HOME	01-01 TO 12-31	0.02 CFS

PLACE OF USE:	Domestic	Within Canyon County
	T05N R03W S31	NWNW

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.

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

RECOMMENDATION

JUN 11 2004

SPECIAL MASTER

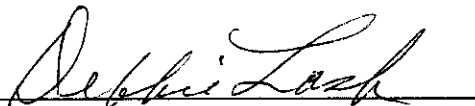
CERTIFICATE OF MAILING

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT AND RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION was mailed with sufficient first-class postage to the following:

Director of IDWR
P O Box 83720
Boise, Idaho 83720-0098

Velma Marchbanks
19664 Purple Sage Rd
Caldwell, Idaho 83605

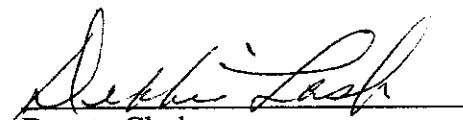

Deputy Clerk

NOTICE OF ISSUANCE

On June 11, 2004, Special Master Thomas R Cushman issued an Special Master's Report and Recommendation to the above listed subcase 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.


Deputy Clerk