

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF TEXAS

STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

JUN 11 AM 11 18

In Re SRBA

SPECIAL MASTER'S REPORT

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Case No. 39576

FOR WATER RIGHTS: 65-165A, 65-165B, 65-165C, 65-165X, 65-7428, 65-7425, 65-7848, 65-7882, 65-11413, 65-7885 65-12279

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 January 18, 2002, George and Cheryl Colwell filed an objection to the point of diversion and place of use elements. Subsequently, on July 3, 2003, George and Cheryl Colwell filed a *Notice of Voluntary Dismissal of Objections*.

II.

CONCLUSIONS OF LAW

Therefore based on the file and record herein, and pursuant to the *Withdraw of Objections*, IT IS RECOMMENDED that the above listed water rights be decreed with the elements as set forth in the attached *Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

III. RECOMMENDATION FOR PLACE OF USE DESCRIPTION USING DIGITAL BOUNDARY

Effective July 1, 2002, the Idaho Legislature approved the use of a Geographic Information system (GIS) for describing the place of use (digital boundary) for water rights meeting certain

criteria. See I.C. §§ 42-219(2) and 42-1411(2)(h). The GIS mapping technology allows the geographic area encompassing the place of use for a water right to be particularly identified and visually displayed in a map overlay format through the aid of computer technology.

Digital Boundary mapping is appropriate for water rights that are for an irrigation purpose of use and also meet one of the following criteria: (1) used in conjunction with an irrigation project where the canals constructed cover an area of twenty-five thousand (25,000) acres or more; (2) the place of use for the water rights is located within an irrigation district organized pursuant to the laws of the state of Idaho; or (3) the water rights are for an irrigation project developed by an association, company, corporation or the United States to divert and deliver or distribute surface water under any annual charge or rental for beneficial use by more than five (5) water users in an area less than twenty-five thousand (25,000) acres.

The above water rights meet one of the above-stated criteria.¹ Therefore IT IS FURTHER RECOMMENDED that the above water rights be decreed using a digital boundary with the partial decree containing the following additional language as set forth in the attached Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b):

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. §42-202B(2)(2003) and authorized pursuant to I.C. § 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.

DATED June 4, 2004.


THOMAS R. CUSHMAN
Special Master
Snake River Basin Adjudication

¹ In incorporating a digital boundary into a partial decree, the electronic or digital data is what is actually decreed as opposed to the visually displayed map ultimately generated from the data. The data is stored on a CD-ROM. The data on the CD-ROM is incorporated by reference into the partial decree. Duplicate originals of the CD-ROM will be issued. The SRBA District Court retains an original together with the original partial decree, and the Idaho Department of Water Resources (IDWR) retains the other original. Upon request, the claimant can obtain a copy of the CD-ROM from IDWR at no cost, although GIS software will still be required to access the data. Subsequent administrative changes to the place of use will also be stored in a digital format and kept on file and maintained by IDWR. IDWR will maintain all computer software and/or hardware necessary for reducing the data to a usable format that is accessible to the general public, including access through the IDWR Internet website (www.idwr.state.id.us) or its successor Uniform Resource Locator (URL).

2004 JUN 11 AM 11 19

In Re SRBA)
)
Case No. 39576)
)

Water Right(s): 65-00165A
(SEE ATTACHED EXHIBIT A)

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 June 11, 2004, with sufficient first-class postage prepaid to the following:

LOWER PAYETTE DITCH CO
LOWER PAYETTE DITCH COMPANY
Represented by:
SCOTT L. CAMPBELL
101 S CAPITOL BLVD, 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829
Phone: 208-345-2000


DEBBIE LASH
Deputy Clerk

PAGE 1
06/11/04

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

2004 JUN 11 AM 11 19

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)
)

)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

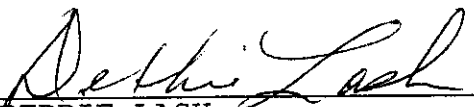
Water Right(s): 65-00165A
(SEE ATTACHED EXHIBIT A)

On June 11, 2004, Special Master THOMAS R CUSHMAN
issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s)
pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

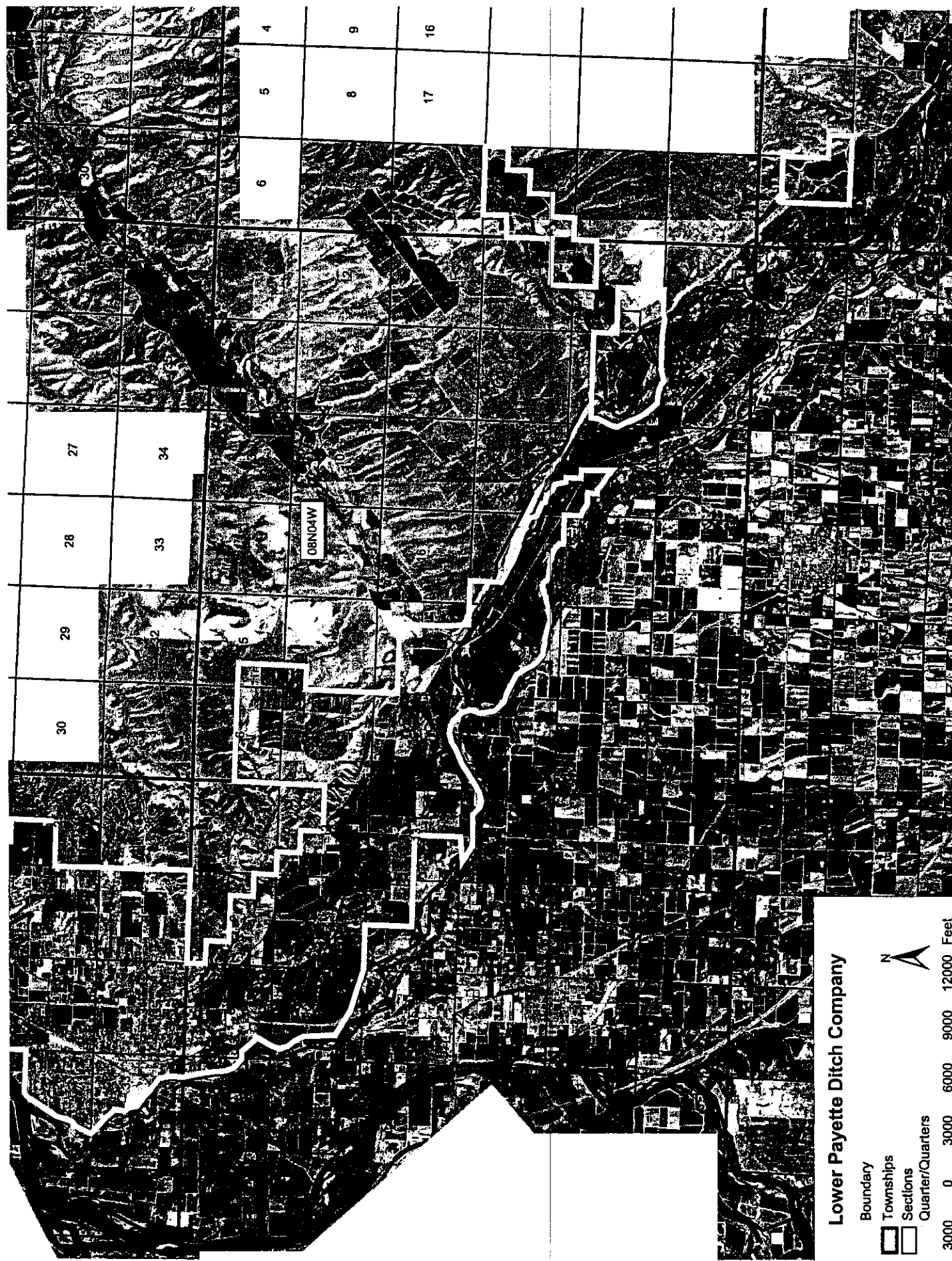
Pursuant to SRBA Administrative Order 1, Section 13a, any party
to the adjudication including parties to the subcase, may file a Motion
to Alter or Amend on or before the 28th day of the next month.

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.

DATED June 11, 2004.



DEBBIE LASH
Deputy Clerk



Lower Payette Ditch Company

Boundary

Townships

Sections

Quarter/Quarters



3000 0 3000 6000 9000 12000 Feet

DISTRICT COURT-SRB,
TWIN FALLS CO. IDAHO
FILED _____

In Re SRBA) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 19576)
)
) Water Right: 65-12279

NAME AND ADDRESS: LOWER PAYETTE DITCH COMPANY
102 N MAIN
PAYETTE, ID 83661

SOURCE: GRAVEYARD GULCH WASTEWAY TRIBUTARY: PAYETTE RIVER

QUANTITY: 3.02 CFS
2857.50 AFY

USE OF THIS RIGHT WITH RIGHT NOS. 65-7882, 65-11413 & 65-7885 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 93.02 CFS. THIS RIGHT WHEN COMBINED WITH ALL OTHER RIGHTS SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE WHEN MEASURED AT THE FIELD HEADGATE.

PRIORITY DATE: 04/07/1980

POINT OF DIVERSION:	T07N R03W S07 LOT 3	(SESENW)	(Rediversion)	Within Payette County
		SESW		
	LOT 7	(NESW)	(Injection)	
	S19	NWSE		
	T08N R04W S21 LOT 5	(SWNW)	(Rediversion)	
	S26 LOT 10	(SESE)	(Injection)	

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	3.02 CFS
			2857.50 AFY

PLACE OF USE:

The boundary encompassing the place of use for this water right is described by 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

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

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