

2004 JUN 11 AM 10 27

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 RIGHTS: 65-3236A, 65-
	)	10722, 65-22441, 65-3002E and 65-3237E

I. FINDINGS OF FACT

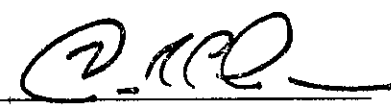
A notice of claim was filed for each of the above listed water rights pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of these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

On 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." A Show Cause Hearing was held in January 2004, the claimants did not appear at hearing. The United States, Bureau of Reclamation verbally *Motioned* at hearing to have the language added. The *Motion* was **granted** on record.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, and pursuant to the *Granting of the Verbal Motion*, 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)*.

DATED June 9, 2004.



THOMAS R. CUSHMAN
Special Master
Snake River Basin Adjudication

2004 JUN 11 AM 10 27

In Re SRBA)
)
Case No. 39576)
)

Water Right(s): 65-03002E
65-03236A 65-03237E 65-10722
65-22441

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:

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

UNITED STATES OF AMERICA
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

MICHAEL BUTLER
REBECCA BUTLER
HC 76 BOX 2590
GARDEN VALLEY, ID 83622
Phone: 208-462-3474

MARIE GRAHAM
PO BOX 16
GARDEN VALLEY, ID 83622

WEST ONE BANK TRUSTEE
WILLS OF RAY & DOROTHY PITMAN;
& PITMAN TWEKSBUURY DANCER
PO BOX 7928
BOISE, ID 83707
Phone: 208-383-7172

LON JARVIS
4 SNOT SPRINGS DR
GARDEN VALLEY, ID 83622


DEBBIE LASH
Deputy Clerk

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In Re SRBA)
)
Case No. 39576)
)
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Water Right(s): 65-03002E
65-03236A 65-03237E 65-10722
65-22441


DEBBIE LASH
Deputy Clerk

1127

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 JUN 11 AM 10 27

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 65-03002E

NAME AND ADDRESS: MICHAEL BUTLER
REBECCA BUTLER
HC 76 BOX 2590
GARDEN VALLEY, ID 83622

SOURCE: WARM SPRINGS CREEK TRIBUTARY: PAYETTE RIVER, MIDDLE FORK

QUANTITY: 0.14 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.02 CFS PER ACRE AT FIELD
HEADGATE. COMBINED RIGHT NOS.: 65-02713A & 65-03237E.

PRIORITY DATE: 06/01/1966

POINT OF DIVERSION: T10N R04E S34 NWSW Within Boise County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	0.14 CFS

PLACE OF USE: Irrigation Within Boise County
T09N R04E S03 SESW 10.0
10.0 Acres Total

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 10.0 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-02713A & 65-03237E.

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

