

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
JUN 11 11 17 AM

In Re SRBA	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHT: 65-2255
_____	)	

**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 April 17, 2000, J.R. Simplot Company filed an objection to the place of use element. Subsequently, a *Standard Form 5* was filed in the above listed subcase on December 6, 2000.

**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)*.

**III.
RECOMMENDATION FOR PLACE OF USE DESCRIPTION USING
DIGITAL BOUNDARY**

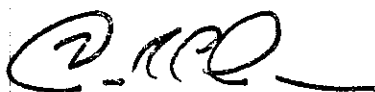
Effective July 1, 2002, the Idaho Legislature approved the use of a Geographic Information system (GIS) for describing the place of use (digital boundary) for water rights meeting certain criteria. See I.C. §§ 42-219(2) and 42-1411(2)(h). The GIS mapping technology allows the geographic area encompassing 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 on 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).

SCANNED
JUN 15 2004

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 *SK*

2004 JUN 11 AM 11 17

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 65-02255

NAME AND ADDRESS: WARNER DITCH CO
H C 71 BOX 2025
CASCADE, ID 83611

SOURCE: BIG CREEK TRIBUTARY: PAYETTE RIVER, NORTH FORK

QUANTITY: 18.00 CFS

PRIORITY DATE: 07/08/1919

POINT OF DIVERSION: T13N R04E S03 NESWSE, Within Valley County

PURPOSE AND			
PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-15	18.00 CFS

PLACE OF USE:

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 792 ACRES WITHIN
THE BOUNDARIES OF THE WARNER DITCH COMPANY 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

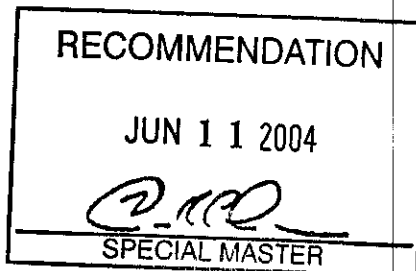
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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



SCANNED
JUN 15 2004

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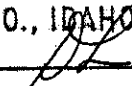
In Re SRBA)
)
Case No. 39576)
)

Water Right(s) : 65-02255

J.R SIMPLOT COMPANY
PO BOX 27
BOISE, ID 83707
Phone: 208-336-2110


DEBBIE LASH
Deputy Clerk

CERTIFICATE OF MAILING

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED 

2004 JUN 11 AM 11 17

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

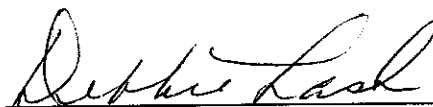
Water Right(s): 65-02255

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

NOTICE OF ISSUANCE

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SCANNED
JUN 15 2004

13N04E

Warner Ditch Company

Boundary

Townships

Sections

Quarter/Quarters

0 2000 Feet



SCANNED
JUN 15 2004