

2004 JUN 22 AM 11 10

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
) (65-3103, 65-22775, 65-22776)
)

) AMENDED SPECIAL MASTER' REPORT
) (65-22327, 65-22777, 65-22778)
)

Case No. 39576

) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)

I. FINDINGS OF FACT

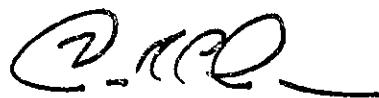
A notice of claim was filed for water rights 65-3103 and 65-22327 pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of these water rights.

On January 17, 2002, the United States of America, Bureau of Reclamation filed an objection to "General Provisions Basin 65 Irrigation & Other Part III (3) Separate Streams Administration" in subcases 65-3103 and 65-22327. George Dovel also filed an objection to 65-3103 and 65-22327. A *Notice of Administrative Proceeding* was filed splitting these water rights. A *Special Master's Report and Recommendation* was issued on April 13, 2004, for water right 65-22327. That *Special Master's Report and Recommendation* is hereby withdrawn.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein and pursuant to the *Notice of Administrative Proceeding*, IT IS RECOMMENDED that water rights 65-3103 and 65-22327 be decreed as **disallowed** and water rights 65-22775, 65-22776, 65-22777 and 65-22778 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 21, 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

DISTRICT COURT - SI
TWIN FALLS CO. IDA
FILED

2004 JUN 22 AM 11

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 65-22775

NAME AND ADDRESS: D R & J INVESTMENTS LTD
PARTNERSHIP
8973 W STATE ST
BOISE, ID 83703-1729

SOURCE: PORTER CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 3.78 CFS
861.70 AFY

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.02 CFS AND TO A TOTAL
COMBINED ANNUAL DIVERSION VOLUME OF 4.5 AF PER ACRE AT FIELD
HEADGATE. COMBINED RIGHT NOS.: 65-1151, 65-1317, 65-2138,
65-2532A, 65-2540, 65-2869, 65-10747, 65-10748, 65-10749,
65-11393A, 65-22778.

PRIORITY DATE: 01/01/1872

POINT OF DIVERSION: T07N R02E S12 NWSE Within Boise County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	3.78 CFS 861.70 AFY

PLACE OF USE:	Irrigation	Within Boise County
	T06N R02E S02	NWNW 14.0 SWNW 6.3
		SESW 16.0 NESW 0.1
	T07N R02E S23	SESW 6.0 NWSE 1.4
		SWSE 28.5 SESE 3.0
	S26	NENE 28.0 NWNW 39.0
		SWNE 38.0 SENE 3.5
		NENW 19.0 SENW 21.1
		NESW 19.6 SESW 18.0
		NWSE 28.0 SWSE 8.3
	S34	SENE 13.9 NESE 39.0
		NWSE 3.8 SWSE 1.6
		SESE 34.0
	S35	NENW 4.4 SWNW 20.5
		NWSW 34.0 SWSW 28.0
	477.0 Acres Total	

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 477 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-1151, 65-1317,
65-2138, 65-2532A, 65-2540, 65-2869, 65-10747, 65-10748,
65-10749, 65-11393A, 65-22778.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 191.5 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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.

OTHER PROVISIONS (continued)

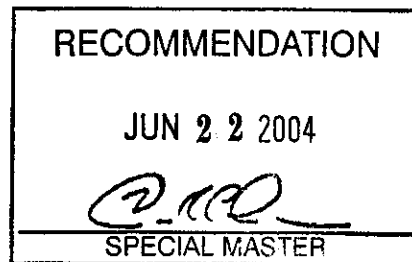
If the holder of this right seeks to change the right pursuant to Idaho Code Section 42-222 or successor statute, nothing in this general provision shall preclude any other person or entity from demonstrating that such change in use would cause injury to its water right or from receiving any relief provided 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



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

DISTRICT COURT - SR
TWIN FALLS CO, IDAHO
FILED

2004 JUN 22 AM 11 1

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 65-22776

NAME AND ADDRESS: GEORGE W DOVEL
434 PIONEER RD
HORSESHOE BEND, ID 83629

SOURCE: PORTER CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.04 CFS
6.80 AFY

THIS RIGHT WHEN COMBINED WITH ALL OTHER RIGHTS SHALL PROVIDE NO
MORE THAN 0.02 CFS PER ACRE NOR MORE THAN 4.5 AFA PER ACRE AT
THE FIELD HEADGATE FOR IRRIGATION OF THE LANDS ABOVE.

PRIORITY DATE: 01/01/1872

POINT OF DIVERSION: T07N R03E S07 LOT 2 (SWNW) Within Boise County

RIGHTS 65-10953, 65-22777, 65-22328, 65-22329 AND 65-222330 ARE
ALSO DIVERTED THROUGH THE POINT OF DIVERSION DESCRIBED ABOVE.

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	0.04 CFS 6.80 AFY

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS
EARLY AS MARCH 15, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE
NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 1 UNDER THIS
REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED
EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE
DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE:	Irrigation	Within Boise County
	T07N R02E S12	SWSW 1.3
	S13	NWNW 0.2
	1.5 Acres Total	

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.

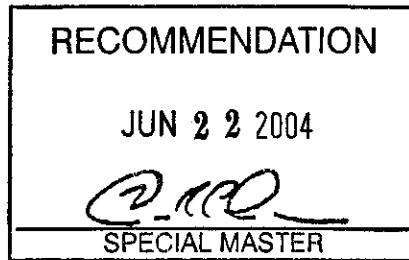
This water right shall be administered as being from a
separate source pursuant to Basin 65 General Provision No. 3.
If the holder of this right seeks to change the right pursuant
to Idaho Code Section 42-222 or successor statute, nothing in
this general provision shall preclude any other person or entity
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



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. WAHC
FILED

2004 JUN 22 AM 11 10

In Re SRBA)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Case No. 39576)
Water Right 65-22777

NAME AND ADDRESS: GEORGE W DOVEL
434 PIONEER RD
HORSESHOE BEND, ID 83629

SOURCE: PORTER CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.08 CFS

PRIORITY DATE: 06/01/1908

POINT OF DIVERSION: T07N R02E S12 NWSE Within Boise County
R03E S07 SWNW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	0.08 CFS

PLACE OF USE: Irrigation Within Boise County
T07N R02E S12 SWSW 0.7
S13 NWNW 0.8
1.5 Acres Total

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.

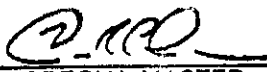
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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.

RECOMMENDATION

JUN 22 2004


SPECIAL MASTER

John M. Melanson
Presiding Judge of the
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

DISTRICT COURT-SRBA
TWIN FALLS CO, IDAHO
FILED *[Signature]*

2004 JUN 22 AM 11 10

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
_____) Water Right 65-22778

NAME AND ADDRESS: D R & J INVESTMENTS LTD
PARTNERSHIP
8973 W STATE ST
BOISE, ID 83703-1729

SOURCE: PORTER CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.04 CFS
6.80 AFY

Use of this right with rights listed below is limited to a total combined diversion rate of 0.02 cfs per acre and to a total combined annual diversion volume of 4.5 af per acre at field headgate. Combined right nos.: 65-1151, 65-1317, 65-2138, 65-2532A, 65-2540, 65-2869, 65-10747, 65-10748, 65-10749, 65-11393A, 65-22775.

PRIORITY DATE: 06/01/1908

POINT OF DIVERSION: T07N R02E S12 NWSE Within Boise County

Rights 65-10746 and 65-22775 are also diverted through the point of diversion described above.

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	0.04 CFS 6.80 AFY

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 15 PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 1 IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE:	Irrigation	Within Boise County
	T06N R02E S02	NWNW 14.0 SESW 16.0
	T07N R02E S23	SESW 6.0 SWSE 28.5
	S26	NENE 28.0 SWNE 38.0 NENW 19.0 NESW 19.6 NWSE 28.0
	S34	SENE 13.9 NWSE 3.8 SESE 34.0
	S35	NENW 4.4 NWSW 34.0
	477.0 Acres Total	SWNW 6.3 NESW 0.1 NWSE 1.4 SESE 3.0 NWNW 39.0 SENE 3.5 SESW 18.0 SWSE 8.3 NESE 39.0 SWSE 1.6 SWSW 28.0

Use of this right with the rights listed below is limited to the irrigation of a combined total of 477 acres in a single irrigation season. Combined right nos.: 65-1151, 65-1317, 65-2138, 65-2532A, 65-2540, 65-2869, 65-10747, 65-10748, 65-10749, 65-11393A, 65-22775.

PLACE OF USE (continued)

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 1.5 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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.

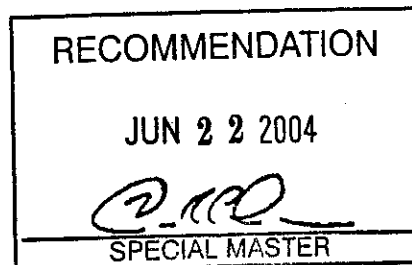
This water right shall be administered as being from a separate source pursuant to Basin 65 General Provision No. 3. If the holder of this right seeks to change the right pursuant to Idaho Code Section 42-222 or successor statute, nothing in this general provision shall preclude any other person or entity 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).

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John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



DISTRICT COURT-SRBA
TWIN FALLS CO IDAHO
FILED

2004 JUN 22 AM 11 10

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

CERTIFICATE OF MAILING

Water Right(s): 65-03103
65-22327 65-22775 65-22776
65-22777 65-22778

CERTIFICATE OF MAILING

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 22, 2004, with sufficient first-class postage prepaid to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

UNITED STATES OF AMERICA
Represented by:
DAVID W GEHLERT
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATRUAL RESOURCE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

DR J INVESTMENTS LIMITED PART
Represented by:
JACK C RIDDLEMOSER
1905 GARRISON LANE
KUNA, ID 83634
Phone: 208-922-3403

CERTIFICATE OF MAILING

PAGE 1
06/22/04

D R & J INVESTMENTS LTD
PARTNERSHIP
8973 W STATE ST
BOISE, ID 83703-1729

GEORGE DOVEL
GEORGE W DOVEL
434 PIONEER RD
HORSESHOE BEND, ID 83629

D R & J INVESTMENTS LIMITED PA
8973 W STATE ST
BOISE, ID 83703-1729
Phone: 208-583-1371


DEBBIE LASH
Deputy Clerk

2004 JUN 22 AM 11 10

In Re SRBA)
)
Case No. 39576)
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      Water Right(s): 65-03103
65-22327      65-22775      65-22776
65-22777      65-22778

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DEBBIE LASH
Deputy Clerk