

2004 JUN 23 AM 9 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
	)	
	)	FOR WATER RIGHTS 63-4631B
	)	(disallowed split into 63-31733, 63-31734,
	)	63-31735 & 63-31736)

I. FINDINGS OF FACT

A notice of claim was filed for water right 63-4631B 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 water right 63-4631B.

On December 31, 2002, the claimant, Raymond Thurman, filed an objection to water right 63-4631B. The United States of America, USDI Forest Service also filed an objection to the priority date, place of use and point of diversion elements in water right 63-4631B. On May 29, 2003, Lyons Woody filed a *Motion to Participate* on behalf of Edgar Stevens Water Users Association.

On January 30, 2004, a *Supplemental Director's Report* was filed splitting water right 63-4631B into 63-31733, 63-31734, 63-31735 & 63-31736. Objections were filed to the split water rights by the United States of America, USDI Forest Service on February 23, 2004, and by Edgar Stevens Water Users Association on February 27, 2004. On June 10, 2004, the parties filed a *Standard Form 5*, resolving the objections. All parties to the subcase and IDWR are signatories to the *Standard Form 5*.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein and pursuant to the *Standard Form 5*, it is RECOMMENDED that water right 63-4631B be decreed as **disallowed** and water rights 63-31733, 63-31734, 63-31735 and 63-31736 be decreed with the elements as set forth in the attached *Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

DATE June 18, 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 - SRBA
TWIN FALLS CO. IDAHO
FILED *JK*

2004 JUN 23 AM 9 17

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
_____) Water Right 63-31733

NAME AND ADDRESS: RAYMOND TAYLOR THURMAN
HC 87 BOX 594
FEATHERVILLE, ID 83647

SOURCE: SOUTH FORK BOISE RIVER TRIBUTARY: BOISE RIVER

QUANTITY: 0.868 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF .16 CFS AT THE FIELD HEADGATE.
COMBINED RIGHT NUMBERS: 63-31733, 63-31734 & 63-31735.

PRIORITY DATE: 04/15/1930

POINT OF DIVERSION: T03N R12E S07 NESW Within Elmore County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	0.868 CFS

PLACE OF USE: Irrigation Within Elmore County
T03N R11E S11 SWSW 0.8
0.8 Acres Total

ALL PLACES OF USE ARE ON PRIVATE LAND WITHIN HOMESTEAD ENTRY
SURVEY (HES) 149.
USE OF THIS RIGHT WITH RIGHT NOS. 63-31734 & 31-31735 IS LIMITED
TO THE IRRIGATION OF A COMBINED TOTAL OF 8 ACRES.
USE OF THIS RIGHT WITH RIGHT NO. 63-31734 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF .8 ACRES IN A SINGLE
IRRIGATION SEASON.

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

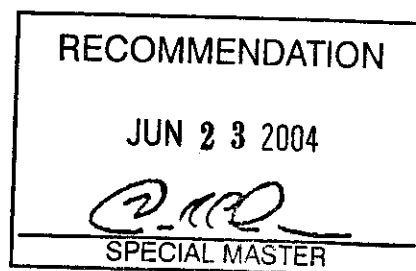
THE RECOMMENDATION BY THE IDAHO DEPARTMENT OF WATER RESOURCES AND
THE DECREE BY THE SNAKE RIVER BASIN ADJUDICATION COURT OF ANY OF
THE ELEMENTS OF THIS WATER RIGHT DO NOT CONSTITUTE A FACTUAL OR
LEGAL DETERMINATION OF THE APPROPRIATORS RIGHT TO USE, OR OF ANY
OWNERSHIP INTEREST IN, THE DITCHES CONNECTING THE POINT OR POINTS
OF DIVERSION TO THE PLACE OR PLACES OF 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



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

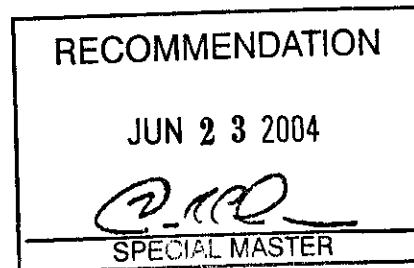
2004 JUN 23 AM 9 17

PAGE 1
Jun-16-2004

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John M. Melanson
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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 23 AM 9 17

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 63-31735

NAME AND ADDRESS: RAYMOND TAYLOR THURMAN
HC 87 BOX 594
FEATHERVILLE, ID 83647

SOURCE: BIG WATER GULCH CREEK TRIBUTARY: SOUTH FORK BOISE RIVER
VAN GULCH TRIBUTARY: SOUTH FORK BOISE RIVER

QUANTITY: 0.775 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF .16 CFS AT THE FILED HEADGATE.
COMBINED RIGHT NUMBERS: 63-31733, 63-31734 & 63-31375.

PRIORITY DATE: 10/05/1899

POINT OF DIVERSION: T03N R11E S11 LOT 2 (SENE) Within Elmore County
S12 NWNE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	0.775 CFS

PLACE OF USE:	Irrigation		Within Elmore County
	T03N R11E S11	NESW 1.1	NWSW 3.8
		SWSW 2.9	SESW 0.2
	8.0 Acres Total		

ALL PLACES OF USE ARE ON PRIVATE LAND WITHIN HOMESTEAD ENTRY
SURVEY (HES) 149.

USE OF THIS RIGHT WITH RIGHT NOS. 63-31733 & 63-31734 IS LIMITED
TO THE IRRIGATION OF A COMBINED TOTAL OF 8 ACRES IN A SINGLE
IRRIGATION SEASON.

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

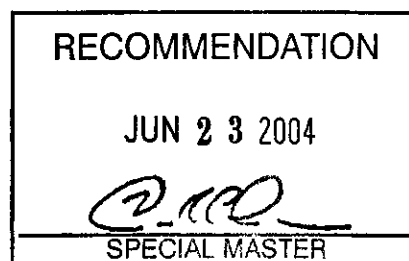
THE RECOMMENDATION BY THE IDAHO DEPARTMENT OF WATER RESOURCES AND
THE DECREE BY THE SNAKE RIVER BASIN ADJUDICATION COURT OF ANY OF
THE ELEMENTS OF THIS WATER RIGHT DO NOT CONSTITUTE A FACTUAL OR
LEGAL DETERMINATION OF THE APPROPRIATORS RIGHT TO USE, OR OF ANY
OWNERSHIP INTEREST IN, DITCHES CONNECTING THE POINTS OF DIVERSION
TO THE PLACE OR PLACES OF 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).

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



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

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

2004 JUN 23 AM 9 17

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 63-31736

NAME AND ADDRESS: RAYMOND TAYLOR THURMAN
HC 87 BOX 594
FEATHERVILLE, ID 83647

SOURCE: STEVENS GULCH TRIBUTARY: SOUTH FORK BOISE RIVER

QUANTITY: 0.024 CFS

PRIORITY DATE: 10/05/1899

POINT OF DIVERSION: T03N R11E S11 LOT 4 (NWSW) Within Elmore County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	0.024 CFS

PLACE OF USE: Irrigation Within Elmore County
T03N R11E S11 NWSW 0.8
0.8 Acres Total

ALL PLACES OF USE ARE ON PRIVATE LAND WITHIN HOMESTEAD ENTRY
SURVEY (HES) 149.

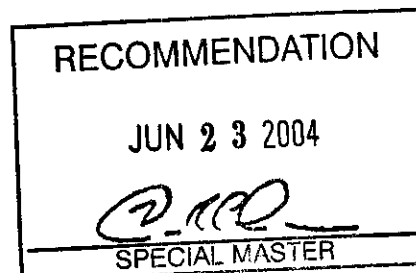
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
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John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



2004 JUN 23 AM 9 17

In Re SRBA)
)
Case No. 39576)
)

Water Right(s) : 63-04631B
63-31733 63-31734 63-31735
63-31736

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 23, 2004, with sufficient first-class postage prepaid to the following:

EDGAR L STEVENS WATER USERS
Represented by:
BRUCE M. SMITH
225 NORTH 9TH ST, STE 420
BOISE, ID 83702
Phone: 208-331-1800

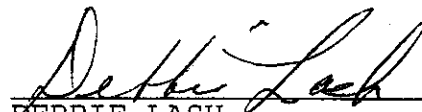
UNITED STATES OF AMERICA
Represented by:
DAVID NEGRI
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

COURTESY COPY
CURTIS THURMAN
4000 S COLE RD
BOISE, ID 83709

RAYMOND T THURMAN
RAYMOND TAYLOR THURMAN
HC 87 BOX 594
FEATHERVILLE, ID 83647

LYONS WOODY
1122 SOUTH CARNAHAN
KING HILL, ID 83633


DEBBIE LASH
Deputy Clerk

2004 JUN 23 AM 9 17

In Re SRBA)
)
Case No. 39576)
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      Water Right(s): 63-04631B
63-31733      63-31734      63-31735
63-31736

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Debbie Lash
DEBBIE LASH
Deputy Clerk