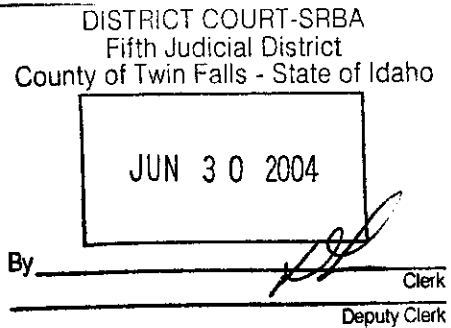




**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHTS: 65-3681,
	)	65-5033C and 65-22621

I. FINDINGS OF FACT

Water Right 65-5033 was decreed in October 29, 1986 in the Payette River Basin Adjudication to Ira Peterson for the irrigation of 255 acres in Round Valley, Valley County, Idaho. On November 18, 1988, Ira Peterson filed a claim to water right 65-5033 in the SRBA pursuant to I.C. § 42-1409. Mr. Peterson claimed the entire quantity of water decreed in the Payette Adjudication but claimed only 226 acres of irrigated property, not the 255 acres decreed to him in the Payette Adjudication. Mr Peterson did not claim Township 11N, Range 4E, Section 7, SWSE or NWNW despite that the water right had recently been decreed as appurtenant to lands in those quarter sections in the Payette Adjudication. 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 for the elements of water rights 65-5033C, 65-3681 and 65-22621.

An objection was filed to water right 65-5033C on March 20, 2000, by Derroll K Ellis, an objection was filed on March 22, 2000, by Larry & Lynn Beskoon, an objection was filed on March 22, 2000, by Fredrick D & Gloria Ringel and an objection was filed April 14, 2000, by James E & Carolyn Kling.

An objection was filed to water right 65-3681 on March 20, 2000, by Derroll K Ellis, an objection was filed on March 22, 2000, by Larry & Lynn Beskoon, and an objection was filed on April 14, 2000, by James E & Carolyn Kling.

A Motion to File an Amended or Late Notice of Claim was filed on August 23, 2001, for

water right 65-22621 by Fredrick & Gloria Ringel. An *Order Granting Motion to File Late Claim* was issued on January 2, 2002. An objection was filed to water right 65-22621 on April 30, 2002 by James & Carolyn Kling. An *Amended Director's Report* was filed on September 12, 2003. On November 28, 2003, Fredrick D & Gloria J Ringel filed an objection to water right 65-22621.

Trial was held in the above listed subcases at the Supreme Court Building in Boise, Idaho on March 25, 2004.

At Trial Fredrick Ringel testified that he purchased the South half, Southeast quarter of Section 6, Township 11 North, Range 4 East from Ira Peterson on August 15, 1974. On September 23, 1977, Mr Peterson deeded property in the SWSE of Section 7 and the NWNE of Section 18, Township 11 North, Range 4 East to James and Carolyn Kling "exclusive of water rights."

In November 1981, the Ringels filed a permit application with the Idaho Department of Water Resources seeking a water right for irrigation of 45 acres of the accomplished transfer property. After completion of their pond, the Ringels began to divert Chipps Creek water from a headgate in the Peterson Ditch into a ditch running northeasterly across the Peterson property and eventually ended in the Ringel's newly constructed pond on the accomplished transfer property with the permission and consent of Ira Peterson. The Ringels irrigated approximately 35 acres with water diverted from Chipps Creek from approximately 1981 to the present.

On October 4, 1990 Mr Peterson and his wife Lola Hays Peterson deeded .02 cfs of water right 65-5033 to James and Carolyn Kling. On May 12, 1996, pursuant to an agreement with Ringels, Ira and Lola Peterson deeded 138.38 acres of their ranch "together with all of the Peterson interest in one-half of" water right 65-5033 with the agreement that Mr Ringel would purchase the remaining half.

Mr Peterson passed away shortly after the execution to the 1996 Warranty Deed conveying property to the Ringels. The Ringels sued Lola Hays Peterson to force her to sell them the remainder of the real property and water rights on which the Petersons and Ringels had agreed. On January 28, 1998, Mrs Peterson executed a Warranty Deed transferring the remaining half of the property and all of Peterson's interest in Water Right 65-5033 that she and Ira Peterson had agreed to sell to the Ringels.

On April 6, 1999, James and Carolyn Kling filed a Notice of Claim to water right 65-5033 in the SRBA, claiming .48 cfs for the irrigation of 24 acres in the SWSE of Section 7, Township 11 North, Range 4 East, despite the fact that Mr Peterson's original claim did not include any lands in

that location. On the basis of Kling's claim and an affidavit of Peterson, IDWR recommended water right no 65-5033A to the Klings for the irrigation of 24 acres with .48 cfs and recommended water right 65-5033B be decreed to Ira Peterson for the irrigation of 28 acres with .56 cfs.

IDWR's Supplemental Director's Report establishes that IDWR erroneously assumed the Ringels had only purchased 138.38 acres from the Petersons. The Ringels have claimed water right 65-5033C, requesting in part that the water right be decreed with 34 acres of irrigation in Section 6, Township 11 North, Range 4 East with a storage component of 6.0 acre feet per annum pursuant to an "accomplished transfer" claimed under I.C. § 42-1425.

IDWR's Senior Water Rights Agent Ron Howerton investigated the Ringels' claim which included the request for storage and for the irrigation of acreage in Section 6, and issued a recommendation denying the Ringels' accomplished transfer claim. Mr Howerton did not investigate whether the accomplished transfer requested by the Ringels could be recommended because at the time of his investigation, the entire portion of the water, 5.10 cfs, had already been recommended to the Klings, the Peterson Estate and the Ringels.

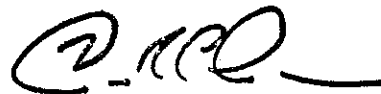
On April 19, 2002, Lola Hays Peterson Revocable Living Trust filed a *Request for Withdrawal of Claims*. On March 18, 2004, a *Special Master's Report and Recommendation* was issued. On May 4, 2004, a *Partial Decree* was issued disallowing water right 65-5033B.

The evidence clearly established that the change claimed by the Ringels took place on the ground prior to the 1987 irrigation season and has carried over to the present. This special master concludes that no water rights were or will be injured by the change claimed by the Ringels.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that water rights 65-5033C, 65-3681 and 65-22621 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 30, 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

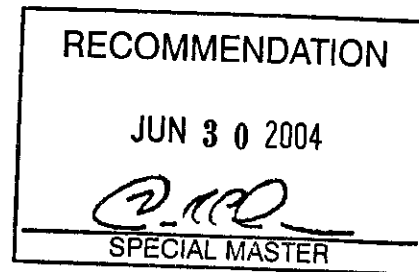
By _____ Clerk
_____ Deputy Clerk

PAGE 1
Jul-01-2004

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

JUN 30 2004

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 65-05033C

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: FREDRICK D RINGEL
GLORIA J RINGEL
PO BOX 582
CASCADE, ID 83611

SOURCE: CHIPPS CREEK TRIBUTARY: CAMP CREEK

QUANTITY: 4.98 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE
SHALL NOT EXCEED 13,000 GALLONS PER DAY.
USE OF THIS RIGHT WITH RIGHT NO. 65-22621 IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 4.98 CFS
USE OF THIS RIGHT WITH RIGHT NO 65-22621 IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF .09 CFS AND TO A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 5.12 AF. FOR STOCKWATER USES.
THIS RIGHT WHEN COMBINED WITH RIGHT NO 65-3681 SHALL PROVIDE NO
MORE THAN .02 CFS PER ACRE.

PRIORITY DATE: 01/04/1897

POINT OF DIVERSION: T11N R04E S06 SWSE Within Valley County
S07 SWSE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-15	4.98 CFS
	Stockwater	01-01 TO 12-31	0.04 CFS
	Irrigation Storage	04-15 TO 10-15	6.00 AFY

PLACE OF USE:	Irrigation		Within Valley County
	T11N R04E S06	SWSE 32.0	SESE 2.0
	S07	NENE 8.0	NWNE 40.0
		SWNE 40.0	SENE 27.0
		NENW 30.0	SENW 26.0
		NESW 12.0	NWSE 38.0
	255.0 Acres Total		

	Irrigation Storage	Within Valley County
	T11N R04E S06	SWSE

	Stockwater	Within Valley County
	Same as Irrigation	

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 249 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON

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

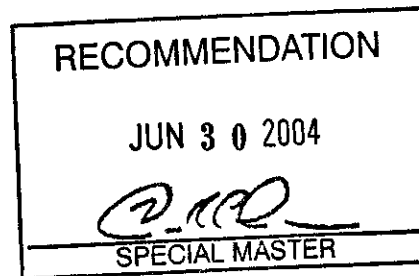
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

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
Fifth Judicial District
County of Twin Falls - State of Idaho

JUN 30 2004

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)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Case No. 39576)
Water Right 65-22621

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: FREDRICK D RINGEL
GLORIA J RINGEL
PO BOX 582
CASCADE, ID 83611

SOURCE: CHIPPS CREEK TRIBUTARY: CAMP CREEK

QUANTITY: 0.23 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL
NOT EXCEED 13,000 GALLONS PER DAY.
USE OF THIS RIGHT WITH RIGHT NO. 65-5033C IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 4.98 CFS.
USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 0.12 CFS AND TO A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 6.7 AF. FOR STOCKWATER USES. COMBINED
RIGHT NOS.: 65-5033A & 65-5033C.

PRIORITY DATE: 05/01/1986

POINT OF DIVERSION: T11N R04E S07 SENE Within Valley County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-15	0.23 CFS
	Stockwater	01-01 TO 12-31	0.12 CFS

PLACE OF USE: Irrigation Within Valley County
T11N R04E S07 NESW 12.0
12.0 Acres Total

Stockwater Within Valley County
Same as Irrigation

USE OF THIS RIGHT WITH RIGHT NO. 65-5033C IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 249 ACRES IN A SINGLE
IRRIGATION SEASON.
USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 281 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-3681 & 65-5033C.

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

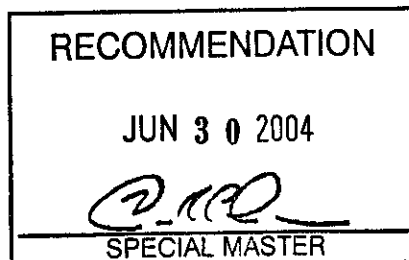
THIS RIGHT IS BASED UPON AN ENLARGEMENT OF RIGHT NO. 65-5033C
PURSUANT TO SECTION 42-1426, IDAHO CODE.

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
Fifth Judicial District
County of Twin Falls - State of Idaho

JUL 2 - 2004

By _____ Clerk
_____ Deputy Clerk

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

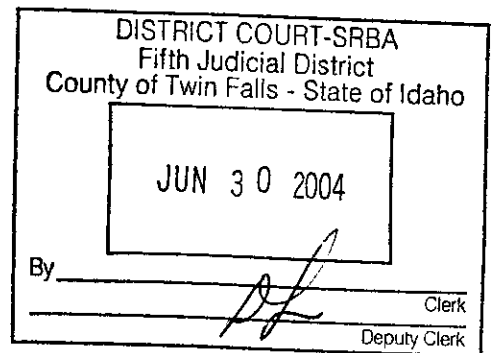
In Re SRBA	)	SUBCASE: 65-3681, 65-5033C
	)	and 65-22621
Case No. 39576	)	
	)	CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT AND RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed July 2, 2004, with sufficient first-class postage to the following:

Director of IDWR
P O Box 83720
Boise, Idaho 83720-0098

Charles Honsinger
P O Box 2773
Boise, Idaho 83701-2773

Debbie Lash
Deputy Clerk



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

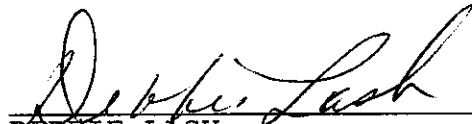
Water Right(s): 65-03681
65-05033C 65-22621

On July 02, 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 July 02, 2004.


DEBBIE LASH
Deputy Clerk