

2004 AUG 16 PM 1:49
DISTRICT ATTORNEY - SRBA
TWIN FALLS, IDAHO
FILED *AM*

In Re SRBA	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	
	)	FOR WATER RIGHT: 63-03447B
	)	
	)	

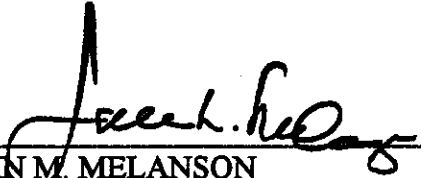
The above-captioned subcase was claimed pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area and filed a *Director's Report*. The *Director's Report* contained a recommendation for these water rights.

On July 6, 2004, the Court rescinded the *Order of Reference to Special Master Thomas Cushman* and set a Status Conference for August 17, 2004. The Court ruled that Judge John M. Melanson would preside over the subcase in the same manner as specified in *Administrative Order 1* for proceedings by Special Masters. On August 9, 2004, a *Standard Form 5/Stipulated Elements of a Water Right* form was filed, signed by the Claimants and the Objectors with IDWR concurrence. The Court vacated the Status Conference set for August 17, 2004.

It appears from the record that all objections have been resolved. Therefore, based on the file and record herein and pursuant to the *Standard Form 5*, IT IS RECOMMENDED that the

above 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)*.

DATED: August 16, 2004



JOHN M. MELANSON
Presiding Judge
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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 63-03447B

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TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: BIFF ESHELMAN
31 SONSHINE LANE
BOISE, ID 83716

SOURCE: ASHTON GULCH TRIBUTARY: ROBIE CREEK

QUANTITY: 0.01 CFS
3.90 AFY

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF .10 CFS AND TO A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 39.1 AF. COMBINED RIGHT NOS.:
63-3447C & 63-3447D.

PRIORITY DATE: 04/26/1965

POINT OF DIVERSION: T04N R04E S30 NENW Within Boise County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-15	0.01 CFS 3.90 AFY

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS
EARLY AS MARCH 15 AND MAY CONTINUE TO AS LATE AS NOVEMBER 15,
PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE
OF WATER BEFORE APRIL 1 AND AFTER OCTOBER 15 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.
DIVERSION FOR IRRIGATION UNDER THIS WATER RIGHT PRIOR TO APRIL 1
AND AFTER OCTOBER 31 SHALL OCCUR ONLY AS AUTHORIZED BY THE
WATER DISTRICT 63 WATER MASTER AND ONLY WHEN WATER IS BEING
RELEASED FOR FLOOD CONTROL BY THE UNITED STATES FROM THE LUCKY
PEAK DAM OUTLET UNDER PROCEDURES AND REQUIREMENTS FOR THE
MEMORANDUM OF AGREEMENT BETWEEN THE U.S. DEPARTMENT OF THE ARMY
AND THE U.S. DEPARTMENT OF THE INTERIOR FOR FLOOD CONTROL
OPERATIONS OF THE BOISE RIVER RESERVOIRS, DATED NOVEMBER 20,
1953, THE WATER CONTROL MANUAL FOR BOISE RIVER RESERVOIR DATED
APRIL 1985 AND ANY FUTURE AMENDMENTS OR REVISIONS MADE THERETO
PURSUANT TO STATE OR FEDERAL PROCEDURES OF LAW; PROVIDED THAT
ANY SUCH USE OF THIS WATER RIGHT PRIOR TO APRIL 1 AND AFTER
OCTOBER 31 SHALL BE SUBORDINATED TO WATER RIGHTS FOR STORAGE IN
LUCKY PEAK RESERVOIR AND/OR LAKE LOWELL AS DECREED IN SRBA
CASE NO. 39576.

PLACE OF USE: Irrigation Within Boise County
T04N R04E S30 NENW 0.5 SENW 1.0
1.5 Acres Total

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 15.2 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 63-3447C & 63-3447D.

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

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

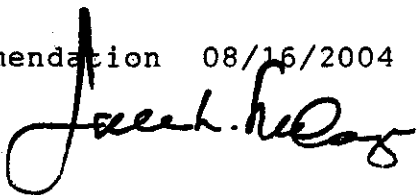
OTHER PROVISIONS (continued)

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 08/16/2004



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

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SRBA
TWIN FALLS CO. IDAHO

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

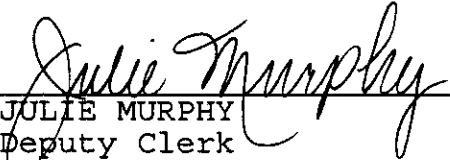
Water Right(s): 63-03447B

On August 16, 2004, Special Master JOHN M MELANSON
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 August 16, 2004.


JULIE MURPHY
Deputy Clerk

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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

In Re SRBA)
)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 63-03447B

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 August 16, 2004, with sufficient first-class postage prepaid to the following:

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

BOISE PROJECT BOARD OF CONTROL

Represented by:
ALBERT P. BARKER
205 N 10TH ST, STE 520
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

BOISE PROJECT BOARD OF CONTROL

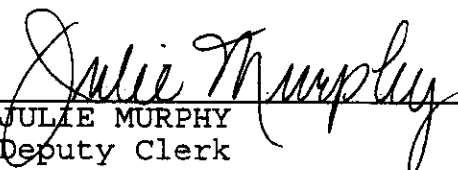
Represented by:
CHESTNUT, AMY D
205 N 10TH ST, STE 520
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

CERTIFICATE OF MAILING

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08/16/04

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

BIFF ESHELMAN
31 SONSHINE LANE
BOISE, ID 83716
Phone: 208-342-3648


JULIE MURPHY
Deputy Clerk