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DEPARTMENT OF
WATER RESOURCES

AUG 19 PM 3:48

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

) ORDER RESCINDING ORDER OF
) REFERENCE
) AND
) THIRD AMENDED SPECIAL
) MASTER'S REPORT
)
) FOR WATER RIGHTS: 65-22587
)

Order Rescinding Order of Reference

- A. Special Master Thomas R. Cushman retired on June 30, 2004. Therefore, the Court finds it appropriate to rescind the Order of Reference to Thomas R. Cushman in the above subcase.
- B. The Court, with Judge John M. Melanson presiding, will proceed in the above subcase in the same fashion as specified in *Administrative Order 1* for proceedings by Special Masters.

Special Master's Report

A *Second Amended Special Master's Report and Recommendation* was filed on June 17, 2004 in the above captioned subcase. The Special Master affirms that *Amended Special Master's Report* in its entirety, with the following corrections of clerical errors:

On the *Recommended Partial Decree*, there is no description for the place of use. A hearing was held on this issue on August 17, 2004. At the hearing, Ms. Dana Hofstetter, counsel for the Claimant, stated that the place of use should be described as "Within the Boundaries of the Roseberry Irrigation District." There were no objections to this suggestion.

The Court finds that the omission of the place of use description was a clerical error, and that the suggested description is appropriate for the above water right.

Therefore, based on the file and the record herein, 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 19 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 65-22587

2004 AUG 19 PM 3:48
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED *jm*

NAME AND ADDRESS: ROSEBERRY IRRIGATION DISTRICT
C/O JOE ELD
2554 E ROSEBERRY
MC CALL, ID 83638

ROSEBERRY IRRIGATION DISTRICT
PO BOX 366
DONNELLY, ID 83615

SOURCE: BOULDER LAKE TRIBUTARY: BOULDER CREEK

QUANTITY: 134.00 AFY

PRIORITY DATE: 01/12/1917

POINT OF DIVERSION: T17N R03E S13 NWSE (Rediversion) Within Valley County
T18N R04E S27 NESE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater Storage	01-01 TO 12-31	134.00 AFY
	Stockwater from Storage	01-01 TO 12-31	134.00 AFY

PLACE OF USE:

WITHIN THE BOUNDARIES OF THE ROSEBERRY IRRIGATION DISTRICT
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 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.

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

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

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.

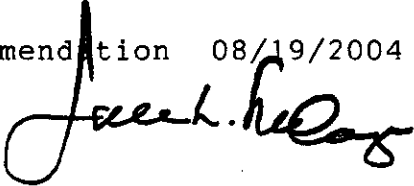
Stockwater use is for 10,000 range cattle.

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 08/19/2004



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

2004 AUG 19 PM 3:48

FILED
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): 65-22587

On August 19, 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 19, 2004.


JULIE MURPHY
Deputy Clerk

2004 AUG 19 PM 3:48
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	)	CERTIFICATE OF MAILING
	)	
Case No. 39576	)	
_____	)	Water Right(s): 65-22587

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 19, 2004, with sufficient first-class postage prepaid to the following:

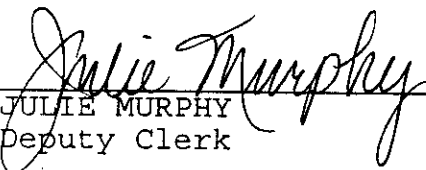
DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

ISLAND CAPITOL LLC
ROSEBERRY IRRIGATION DIST
ROSEBERRY IRRIGATION DISTRICT
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702
Phone: 208-424-7800

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

CERTIFICATE OF MAILING

ROSEBERRY IRRIGATION DISTRICT
C/O JOE ELD
2554 E ROSEBERRY
MC CALL, ID 83638
Phone: 208-325-8876


JULIE MURPHY
Deputy Clerk