

7/27/04 AUG 25 PM 4: 47

FILED T-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	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	FOR WATER RIGHT: 63-05101
	)	
	)	
	)	
_____	)	

I. PROCEDURAL HISTORY

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.

Objections were filed to the recommendation for the above right by the United States, Department of Interior, Bureau of Reclamation (United States) and the Boise Project Board of Control (Board of Control) regarding the season of use, period of year element recommended for the water right. The Idaho Department of Water Resources filed a *Case Management Report* on March 10, 2003 in the above captioned subcase.

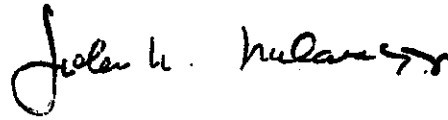
On July 6, 2004, the Court rescinded the *Order of Reference to Special Master Thomas Cushman* and set a Status Conference for August 17, 2004. The Court ruled that Judge John M. Melanson would preside over the subcase in the same manner as specified in *Administrative Order 1* for proceedings by Special Masters. On August 16, 2004, a *Standard Form 5/Stipulated Elements of a Water Right* form was filed, signed by the Claimant and the Objectors with IDWR's concurrence. The Court vacated the Status Conference set for August 17, 2004.

II. CONCLUSIONS OF LAW

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 24, 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

2001 AUG 25 PM 4: 47

NOT RECORDED
TWIN FALLS CO., IDAHO
FILED

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 63-05101

NAME AND ADDRESS: JAY R PRIEST
MARILYN PRIEST
PO BOX 122
IDAHO CITY, ID 83631

SOURCE: MORES CREEK TRIBUTARY: BOISE RIVER

QUANTITY: 0.10 CFS

USE OF THIS RIGHT WITH RIGHT NO. 63-15395 IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF .10 CFS.

PRIORITY DATE: 04/26/1889

POINT OF DIVERSION: T05N R04E S24 LOT 5 (SESE) Within Boise County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.10 CFS

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 WATERMASTER 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 OR 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
T05N R04E S24 LOT 5 (SESE) 5.0
5.0 Acres Total

USE OF THIS RIGHT WITH RIGHT NO. 63-15395 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 5 ACRES IN A SINGLE IRRIGATION
SEASON.

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
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.

Recommended
8/24/04

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

John M. Melanson

2004 AUG 25 PM 4:47

FILED
TWIN FALLS CO., IDAHO
CLERK-SRBA

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

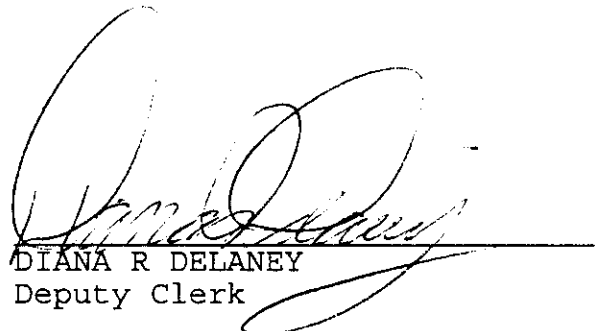
Water Right(s): 63-05101

On August 24, 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 24, 2004.


DIANA R DELANEY
Deputy Clerk

2004 AUG 25 PM 4: 47

BOISE PROJECT-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) : 63-05101

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 24, 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

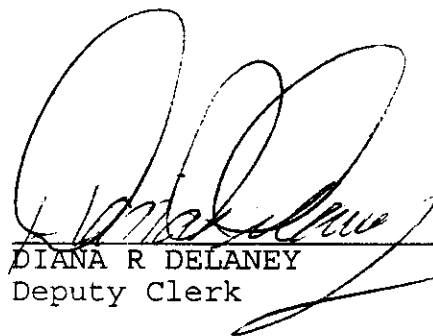
Represented by:
CHESTNUT, AMY D
205 N 10TH ST, STE 520
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

CERTIFICATE OF MAILING

PAGE 1
08/24/04

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

JAY R PRIEST
MARILYN PRIEST
PO BOX 122
IDAHO CITY, ID 83631
Phone: 208-392-4517



DIANA R DELANEY
Deputy Clerk