

FILED
CLERK OF DISTRICT COURT
TWIN FALLS, IDAHO
JL

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 RIGHT 36-00005B

I. FINDINGS OF FACT

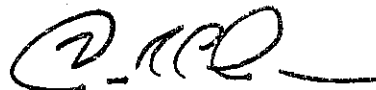
A Late Notice of Claim was filed for this water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report – Late Claim* contained a recommendation or abstract for the elements of this water right.

On June 28, 2001, an *Objection* to the *Director's Report* was filed by North Snake Ground Water District. Maria Yvonne Anderson filed a *Motion to File Late Objection* and *Lodged an Objection* on October 5, 2001. On January 14, 2002, the *Motion to File Late Objection* was granted at hearing. Subsequently, on September 17, 2002, a *Standard Form 5/Stipulated Elements of a Water Right* was filed settling the objections to water right 36-00005B. All parties and IDWR are signatures 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 claim 36-00005B be decreed with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b) for Water Right 36-00005B*.

DATED: December 18, 2002.



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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 36-00005B

2002 DEC 18 PM 3:33

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TWIN FALLS CO. IDAHO
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NAME AND ADDRESS: KINGSTON PROPERTIES LP
477 SHOUP AVENUE SUITE 207
IDAHO FALLS, ID 83402

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 1.40 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER
PURPOSES SHALL NOT EXCEED 13,000 GALLONS PER DAY.

THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER
DESCRIBED FOR STOCKWATER PURPOSES AT A POINT OF MEASUREMENT
WHERE THE DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED.

PRIORITY DATE: 09/10/1884

POINT OF DIVERSION: T07S R13E S11 SESENE Within Gooding County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	02-15 TO 11-30	1.40 CFS
	Stockwater	01-01 TO 12-31	0.05 CFS
	Fish Propagation	01-01 TO 12-31	1.40 CFS

THE PORTION OF THIS RIGHT FOR FISH PROPAGATION PURPOSES IS
SUBORDINATED TO ALL GROUND AND SURFACE WATER RIGHTS WITH PRIORITY
DATE OF AUGUST 15, 2002, OR EARLIER.

PLACE OF USE: Irrigation Within Gooding County
T07S R13E S27 SWNW 24.0 NSW 9.0
S28 LOT 4 (SWNE) 9.0 SENE 25.0
NESE 40.0 LOT 5 (NWSE) 22.0
129.0 Acres Total

Stockwater Within Gooding County
T07S R13E S27 SWNW NSW
S28 LOT 4 (SWNE) SENE
NESE LOT 5 (NWSE)

Fish Propagation Within Gooding County
T07S R13E S27 SWNW
S28 LOT 4 (SWNE) SENE

USE OF THIS RIGHT WITH RIGHTS 36-00003B AND 36-00019B IS
LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 129 ACRES IN A
SINGLE IRRIGATION SEASON.

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

THE QUANTITY OF WATER DECREED FOR THIS RIGHT FOR STOCKWATER
USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
THE PORTION OF THIS WATER RIGHT FOR FISH PROPAGATION PURPOSES
SHALL NOT BE ASSERTED, DELIVERED, USED, ENFORCED, EFFECTIVE, OR
OTHERWISE RECOGNIZED IF IT WOULD CAUSE OR REQUIRE IN ANY WAY
OR OTHERWISE RESULT IN, EITHER DIRECTLY OR INDIRECTLY,
CURTAILMENT OF, INJURY TO, OR MITIGATION FROM ANY SURFACE AND
GROUND WATER RIGHTS EXISTING AS OF AUGUST 15, 2002.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS

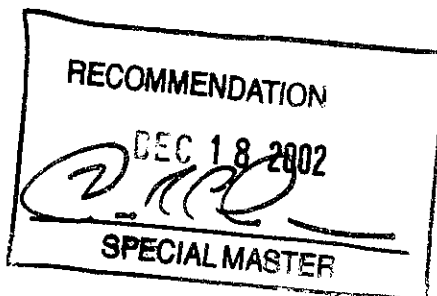
OTHER PROVISIONS (continued)

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.

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication



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In Re SRBA)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 36-00005B

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 December 18, 2002, with sufficient first-class postage prepaid to the following:

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

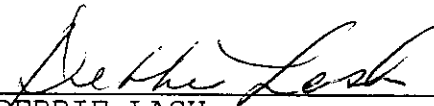
NORTH SNAKE GROUND WATER DIST
Represented by:
JOSEPHINE P. BEEMAN
409 WEST JEFFERSON STREET
BOISE, ID 83702
Phone: 208-331-0950

KINGSTON PROPERTIES LP
Represented by:
PATRICK D. BROWN
HUTCHINSON & BROWN, LLP
P O BOX 207
TWIN FALLS, ID 83303-0207
Phone: 208-733-9300

CERTIFICATE OF MAILING

PAGE 1
12/18/02

MARIA Y ANDERSON
1945 S WEIMARAMER WY
MERIDIAN, ID 83642
Phone: 208-888-7178


DEBBIE LASH
Deputy Clerk

2002 DEC 18 PM 3:33

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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

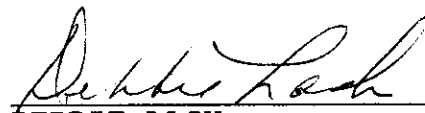
Water Right(s): 36-00005B

On December 18, 2002, 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 December 18, 2002.


DEBBIE LASH
Deputy Clerk