

2002 DEC 24 AM 10:36
FILED
CLERK OF DISTRICT COURT
TWIN FALLS, IDAHO
Jc

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 AND
	)	RECOMMENDATION; FINDINGS OF
Case No. 39576	)	FACT AND CONCLUSIONS OF LAW
	)	
	)	WATER RIGHT NOS.: 31-00053A,
	)	31-00053B, 31-00054B, 31-00055B and
	)	31-00055C

I. INTRODUCTION AND PROCEDURAL BACKGROUND

Notices of claim were filed for these subcases by claimants Max Siddoway and Jack Hamilton. Mr. Siddoway claimed water right nos. 31-00053A and 31-00055C. Mr. Hamilton claimed water right nos. 31-00053B, 31-00054B and 31-00055B. IDWR investigated the claims, and *Director's Reports* were filed. Neighboring water users David Hirschi, Joe Knotwell, Horace Frederiksen, Howard Frederiksen, and the Rocking Question LLC (hereafter "Objectors") filed *Objections*. The Objectors assert that these rights were forfeited or abandoned. If these rights were not abandoned or forfeited, the Objectors dispute the *Director's Report* recommendation that East Camas Creek is the source of these water rights.

A settlement conference was held June 11, 2002. The parties did not settle. A trial was held in Rexburg, Idaho on September 24 through September 25, 2002. The parties filed *Closing Arguments* on November 6, 2002.

II. STANDARD OF REVIEW

The *Director's Report* has *prima facie* weight as set forth in I.C. § 42-1411(4)-(5). The term *prima facie* evidence is an alternative label for a rebuttable presumption. *McCray v.*

Rosenkrance, 135 Idaho 509, 514 (2001); *State v. Hagerman Water Right Owners*, 130 Idaho 736, 947 P.2d 409, 418 (1997); *State v. Hebner*, 108 Idaho 196, 97 P.2d 1210 (Ct. App. 1985). Thus, giving evidence *prima facie* status confers a presumption that sufficient proof has been made to prevail on an issue absent competent evidence to the contrary. *Prima facie* proof shifts only the burden of production, not the burden of persuasion on an issue. *McCray*, 135 Idaho at 514. When rebutted, the presumption disappears and the party with the benefit of the presumption retains the burden of persuasion on the issue. The facts on which the presumption is based are then weighed with other relevant facts. *McCray* at 514.

The *Director's Report* as *prima facie* evidence draws a conclusion as to particular elements of a water right. A presumption exists until the objector presents "substantial evidence" that the element is other than as recommended. If the objector presents such evidence, the presumption disappears. Nevertheless, the facts upon which the presumption is based are to be weighed with all other facts that may be relevant. *Id.* at 419.

III. FINDINGS OF FACT

A. Background

The place of use on which these water rights are claimed is located in Clark County, Idaho and was previously owned by Sherman Halverson. Mr. Halverson owned water right nos. 31-00053, 31-00054 and 31-00055 which were originally decreed in *Suave v. Abbott*, Case No. 635, Decree (Dist. Idaho Nov. 1, 1930). In the early 1980s, Max Siddoway and Jack Hamilton purchased the property previously owned by Mr. Halverson. Max Siddoway purchased approximately 240 acres from Mr. Halverson. Jack Hamilton purchased approximately 80 acres from Mr. Halverson. Mr. Siddoway irrigated the land he purchased from 1982 to 2002. Mr. Hamilton irrigated the property he purchased from 1983 to the present, except for one year. (Testimony of Max Siddoway and Jack Hamilton)

Irrigation in the Clark County area is accomplished by the "high mountain meadows" practice of watering. The area is irrigated from streams that have high flood flows during the early season and low, late summer flows. The irrigation systems in the area are difficult to maintain due to occasional flooding. As a result, diversion works in the area are crude by some standards. The efficiency of this type of system is lower than with furrow irrigated, sprinkler, or laser-leveled, border irrigation systems. (Testimony of Dr. Charles Brockway)

The ditch structure on the Siddoway and Hamilton properties is typical of irrigation structures in the area. It is an old structure that follows the slope of the land. The land on the west side of the ditch has been leveled and is easier to irrigate than land on the east side of the property. The seepage rates in the area are moderately high. (Testimony of Dr. Charles Brockway)

B. Forfeiture/Abandonment

The Objectors assert that these water rights were forfeited or abandoned by Sherman Halverson before he sold to Siddoway and Hamilton. Objectors assert Mr. Halverson failed to irrigate the property for many years. Objectors also claim Halverson failed to contribute money to improve the head gate on the "Knotwell-Hirschi-Bennett" ditch, showing he had abandoned these rights.

In the early 1970s, Joe Knotwell, David Hirschi, Sr. (the predecessor to Objector David Hirschi Jr.) and Kenneth Bennett (the predecessor to Objector Rocking Question, LLC) constructed a new diversion works for their water rights from East Camas Creek at T13 N, R39E, Section 32, SENWNW. The point of diversion for this new diversion works from East Camas Creek was near Mr. Halverson's property. Mr. Halverson was asked to share in the cost of building the new diversion; however, he declined to make a financial contribution. (Testimony of David Tuthill, Exhibit 6)

In 1982 and 1983, claimants diverted East Camas Creek water from the point of diversion located in T13N, R39E, Section 32, SENWNW. Water from this point of diversion flows into the "Knotwell-Hirschi-Bennett" ditch. Joe Knotwell gave Claimants permission in 1981 or 1982 to divert from the point of diversion and to use the ditch. (Testimony of David Tuthill, Testimony of Joe Knotwell, Exhibit 6)

In 1989, Knotwell, Hirschi and Bennett withdrew permission to use the East Camas Creek diversion or the "Knotwell-Hirschi-Bennett" ditch. IDWR directed the Watermaster for Water District 31 to allow Siddoway and Hamilton to divert water from East Camas Creek pending final resolution by the SRBA Court.¹ (Testimony of David Tuthill, Exhibit 6)

The Objectors presented evidence regarding forfeiture. David Hirschi worked on the

¹ The parties stipulated that the claimants' use of water from 1990 to the present will not impact the assertion of forfeiture/abandonment or source. See, Stipulation of the Parties (Sept. 24, 2002)

Halverson property mowing hay for a time. His observations of the property led him to believe it had not been irrigated because of its rough condition. (Testimony of David Hirschi) Larry Singleton worked on the McCormick place next to Mr. Halverson's property. He did not see Mr. Halverson irrigate. (Testimony of Larry Singleton) Joe Knotwell did not see Mr. Halverson irrigate. He did not observe headgates on the Halverson property until after Hamilton and Siddoway purchased the property. (Testimony of Joe Knotwell) Horace Frederiksen did not see Mr. Halverson irrigate the property. He did not observe any crop planted on the Halverson property. (Testimony of Horace Frederiksen) Howard Frederiksen helped Mr. Halverson with his sheep and cows and helped him haul hay. He observed the Halverson property and believes it was dry farmed, not irrigated. (Testimony of Howard Frederiksen) Eileen Bennett and her husband helped Mr. Halverson work on his fence in 1965 when he was hospitalized. She observed no water on his property. She did not see Mr. Halverson irrigate the property from 1948 on. (Testimony of Eileen Bennett)

The Claimants presented testimony regarding nonforfeiture. Blaine Kyle Downs, a retired federal employee with the U.S. Soil Conservation Service, was assigned to work in Clark County two days per week. Mr. Downs visited the Halverson property on many occasions and observed the ditch. He observed irrigation on the property. He worked on diversion points out of the "Knotwell-Hirschi-Bennett" ditch. He worked on contour ditches across the field. Mr. Downs observed that Mr. Halverson's irrigation practices were much like those of Mr. Bennett, the Frederiksens, and Mr. Hirschi. Mr. Halverson participated in a federal program that allowed a farmer to obtain financial assistance from the U.S. government to level farm ground. (Testimony of Blake Kyle Downs) In order to qualify for government assistance, the farmer had to have a water right and had to use that water right consistently. (Testimony of Boyd Yancey, Testimony of Blaine Kyle Downs) The Halverson property qualified as irrigated crop land for federal programs including a cost-sharing leveling program. (Testimony of Blaine Kyle Downs)

The water delivery records prepared by the Water Master in Basin 31 show these water rights were used from 1955 to 1991, with no period of nonuse for the requisite five years. (Exhibit 27) Aerial photographs of the Halverson property were taken in 1951, 1960, 1966, 1971, and 1978. (Exhibits 17, 18, 19, 20, & 21) The aerial photographs do not, by themselves, prove the Halverson property was irrigated during the years the photographs were

taken. The photographs are, however, consistent with irrigation having taken place. (Testimony of Dr. Charles Brockway)

C. Source

The Objectors assert that if these water rights were not forfeited, the source is from Camas Creek, Warm Creek, Little Warm Creek, Little Ching Creek or Ching Creek, not East Camas Creek as reported in the *Director's Report*. These water rights were derived from the *Suave v. Abbott* decree which lists the source as Camas Creek.

The *Director's Report* recommended the source as East Camas Creek. During its investigation of these rights in the SRBA, IDWR conducted a review of the water rights decreed in *Suave v. Abbott*. IDWR determined that the *Suave v. Abbott* court frequently decreed "Camas Creek" as the source for water rights actually located on a tributary to Camas Creek. IDWR therefore recommended rights in the SRBA with the tributary source historically used. The rights at issue were recommended on East Camas Creek as was one right recommended to objector Joe Knotwell. Both the rights at issue here and one of Mr. Knotwell's rights were described in *Suave v. Abbott* with the source as Camas Creek. (Exhibits 1-6, 9, Testimony of David Tuthill)

The alternative sources suggested by Objectors for these water rights are implausible. The main stem of Camas Creek is implausible, because it was nearly impossible to irrigate from Camas Creek in the 1800s. (Testimony of David Tuthill). Ching Creek is an improbable source for these rights. Without fluming, it is impossible to bring Ching Creek water to the places of use since Warm Creek is located in between. (Testimony of David Tuthill, Al Ruberry, Greg Shenton, Dr. Charles Brockway) Little Ching Creek is an improbable source for these rights because it is impossible to bring Little Ching Creek water to the west side of the property without fluming. (Testimony of Greg Shenton) Warm Creek could not have been a source for the Halverson land to the west of the ditch without fluming, and there is no evidence that such a flume ever existed. (Testimony of David Tuthill, Al Ruberry, Greg Shenton, Dr. Charles Brockway) Objectors suggested that Cottonwood Creek is another potential source, however, there was little evidence supporting Cottonwood Creek as the source. The most likely source of these water rights is East Camas Creek. (Testimony of David Tuthill, Greg Shenton, Dr. Brockway)

D. Over Appropriation

Objectors argue that these water rights should not exist on East Camas Creek because that source is overappropriated. There was insufficient proof at trial that East Camas Creek is overappropriated. IDWR did not compare the total flow rates to the diversions recommended prior to issuing the *Director's Reports* for these rights. Although IDWR did not estimate the flow rate on East Camas Creek, it is not more than 10 cfs. (Testimony of Dr. Brockway). Water rights totaling 23 cfs have been recommended on East Camas Creek. It is common for the total water rights on a source to exceed the flow records since water rights are not in use all the time. (Testimony of David Tuthill)

If the Hamilton and Siddoway water rights were removed from East Camas Creek, the remaining water users would receive less of their authorized diversions due to seepage rates and ditch conditions. (Testimony of Dr. Charles Brockway)

IV. ANALYSIS

A. Forfeiture/Abandonment

1. **Abandonment.** Abandonment of a water right is a common law concept. Both nonuse and actual relinquishment with intent to abandon must be shown. *Gilbert v. Smith*, 97 Idaho 735, 552 P.2d 1220 (1976). The party seeking to show abandonment has the burden of proving all elements by clear and convincing evidence. *Id.* Intent to abandon a water right must be shown by clear, unequivocal and decisive acts. *Sears v. Berrymore*, 101 Idaho 843, 623 P.2d 455 (1981). Objectors argue that Mr. Halverson's failure to make a financial contribution to improve the diversion and the "Knotwell-Hirschi-Bennett" ditch or long time failure to irrigate shows abandonment. This Special Master holds otherwise. It is not uncommon for land owners to contribute a right-of-way in lieu of a financial contribution or to make contributions other than money. Furthermore, there was conflicting evidence regarding Mr. Halverson's irrigation. This Special Master is not convinced by "clear and convincing" evidence that these rights were abandoned. This Special Master holds that these water rights were **not abandoned**.

2. **Forfeiture.** Statutory forfeiture is based on the legislative declaration in I.C. § 42-222(2) that water rights may be lost if they are not applied to a beneficial use for five continuous years. *McCray*, 135 Idaho at 515; *Jenkins v. State, Dept. of Water Resources*, 103 Idaho 384, 647 P.2d 1256 (1982). Forfeiture is disfavored under Idaho law, and the Idaho

Supreme Court has consistently held that forfeiture must be proven by "clear and convincing" evidence. *McCray*, 135 Idaho at 515. IDWR determined that these water rights were not forfeited. IDWR's conclusion of nonforfeiture receives *prima facie* weight, but the presumption can be rebutted. I.C. § 42-1411(4), *McCray*, 135 Idaho at 514; *State v. Hagerman Water Right Owners*, 130 Idaho 736 (1997)

Objectors presented enough evidence to rebut the *Director's Report* as to forfeiture. But after considering the facts underlying the *Director's Report* and the other relevant evidence, this Special Master finds that forfeiture did not occur. Although Objectors did not observe Mr. Halverson irrigating over a period of many years, other individuals observed evidence of irrigation. Halverson qualified for federal programs that required consistent irrigation. The records of irrigation kept by the Water Master indicate that Mr. Halverson's rights were used during most years and show there was no five-year period of nonuse. The facts at trial failed to show by "clear and convincing" evidence that these water rights were forfeited. This Special Master holds that these water rights were **not forfeited**.

B. Source

The Objectors presented evidence that source should be other than East Camas Creek.²

² This Special Master did not admit one exhibit offered to prove that source was **not** East Camas Creek. Objectors offered Exhibit 26, a letter to Mrs. Eileen Bennett from Watermaster Donald W. Shenton. The letter states:

First, I have no knowledge of ever delivering water to Mr. Halverson from East Camas Creek sources at the mentioned Knotwell, Hirsch, Bennett Diversion.

. . .after a search of the records that water right #29 which is the water right of contention, the water has been delivered every year except 1978 as far back as I reviewed the records to 1955.

However this water delivery was made to Mr. Halverson through one or the other three of Mr. Halverson's Ching Creek Points of Diversion. Up until 1982 I did not know that Right #29 was claimed to be an East Camas Creek Source until Mr. Siddoway made request for delivery at the point of diversion of contention. Mr. Halverson had on occasion told me he had the right to use water from East Camas or Ching Creek at any point of diversion that he so wished, however he did not have evidence to confirm his statements.

(Exhibit 26)

At the time of trial, Donald W. Shenton was unavailable to testify because he had passed away in 1998. Exhibit 26 is hearsay pursuant to I.R.E. 802. The exceptions to the hearsay rule, such as the business records exception pursuant to I.R.E. 803(6) or 803(24) or 804(5) do not appear to apply. However, even if this Special Master admitted Exhibit 26, this *Master's Report and Recommendation* would not change. Exhibit 26 has limited evidentiary weight. Mr. Shenton is not able to clarify any of the statements in his letter. Furthermore, the letter does not establish that Mr. Halverson had no rights to use East Camas Creek water. The letter merely states that when water was delivered, it was delivered to a point of diversion from Ching Creek.

Special Master's Report and Recommendation

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This Special Masters holds that Objectors presented sufficient evidence to rebut the presumption afforded the *Director's Report*. After considering the facts underlying the *Director's Report* and other relevant evidence, this Special Master finds the source of these water rights is East Camas Creek. The source decreed in *Suave v. Abbott* was Camas Creek. The decreed source, however, must be analyzed in context. Since the *Suave v. Abbott* court listed Camas Creek for rights on the main stem of Camas Creek and its tributaries, the prior decree does not prevent the SRBA from correctly identifying the source as a tributary of Camas Creek. Objectors offered testimony that these rights had a source other than East Camas Creek. However, testimony showing East Camas Creek as the source was more persuasive. The investigating water agent Al Ruberry, IDWR's Adjudication Bureau Chief David Tuthill and Claimants' expert Dr. Charles Brockway testified that the alternative sources suggested by Objectors are improbable. This Special Master holds that **source is East Camas Creek**.

C. Over Appropriation

Objectors argued that Siddoway's and Hamilton's water rights should not be decreed with a source of East Camas Creek because East Camas Creek is overappropriated. In reviewing the facts at trial, there is insufficient evidence to prove that East Camas Creek is overappropriated. Even if East Camas Creek were overappropriated, Idaho water law does not allow a court to strip a water user of a vested water right because the source becomes overappropriated.³ In times of shortage, the prior appropriation doctrine applies and junior priority rights are not diverted.

V. CONCLUSION

The *Director's Reports* for these subcases conclude that these water rights were not forfeited or abandoned. The *Director's Reports* further conclude that the source for each of these water rights is East Camas Creek. The Objectors provided evidence to rebut the presumption afforded the *Director's Report*. This Special Master weighed the evidence presented at trial and is persuaded that the recommendations contained in the *Director's Reports* are correct. First, the evidence fails to persuade this Special Master by "clear and convincing" evidence that these rights were forfeited or abandoned. Second, this Special Master is persuaded that the source for these water rights is East Camas Creek.

³ Overappropriation may have different ramifications in cases of new water rights or transfers.

Therefore, based on the file and record herein, IT IS RECOMMENDED that these water rights be decreed with the elements set forth in the attached *Special Master's Recommendations for Partial Decree*.

DATED: December 24, 2002.



BRIGETTE BILYEU
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)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 31-00053A

2002 DEC 24 AM 10:36
FILED
CLERK OF DISTRICT COURT
TWIN FALLS, IDAHO

NAME AND ADDRESS: MAX SIDDOWAY
2568 E 100 N
TETON, ID 83451

SOURCE: EAST CAMAS CREEK TRIBUTARY: CAMAS CREEK

QUANTITY: 0.30 CFS

USE OF THIS RIGHT WITH RIGHT NO. 31-00055C IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 1.3 CFS.

PRIORITY DATE: 05/01/1896

POINT OF DIVERSION: T13N R39E S32 SENWNW Within Clark County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	05-01 TO 10-31	0.02 CFS
	Irrigation	05-01 TO 10-31	0.30 CFS

PLACE OF USE: Irrigation Within Clark County
T13N R39E S32 NESW 39.0 NWSE 5.0
SWSE 11.0
55.0 Acres Total

Stockwater Within Clark County
Same as Irrigation

USE OF THIS RIGHT WITH RIGHT NO. 31-00055C IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 55 ACRES IN A SINGLE
IRRIGATION SEASON.

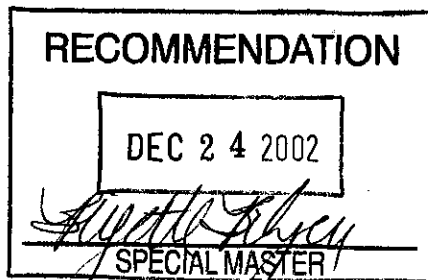
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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.



Roger Burdick
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

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 31-00053B

2002 DEC 24 AM 10:37

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TWIN FALLS, IDAHO
FILED

NAME AND ADDRESS: JACK R HAMILTON
LELA M HAMILTON
4969 N 5 E
IDAHO FALLS, ID 83401

SOURCE: EAST CAMAS CREEK TRIBUTARY: CAMAS CREEK

QUANTITY: 0.10 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF .50 CFS. COMBINED RIGHT NOS.:
31-00053B, 31-00054B, 31-00055B.

PRIORITY DATE: 05/01/1896

POINT OF DIVERSION: T13N R39E S32 SENWNW Within Clark County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	05-01 TO 10-31	0.10 CFS
	Stockwater	05-01 TO 10-31	0.05 CFS

PLACE OF USE: Irrigation Within Clark County
T13N R39E S32 SENW 25.0
25.0 Acres Total

Stockwater Within Clark County
Same as Irrigation

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 25 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 31-00053B, 31-00054B,
31-00055B.

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).

RECOMMENDATION

DEC 24 2002

SPECIAL MASTER

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

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

2002 DEC 24 AM 10:37

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

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 31-00054B

FILED
CLERK, IDAHO
[Signature]

NAME AND ADDRESS: JACK R HAMILTON
LELA M HAMILTON
4969 N 5 E
IDAHO FALLS, ID 83401

SOURCE: EAST CAMAS CREEK TRIBUTARY: CAMAS CREEK

QUANTITY: 0.25 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF .50 CFS. COMBINED RIGHT NOS.:
31-00053B, 31-00054B, 31-00055B.

PRIORITY DATE: 06/01/1897

POINT OF DIVERSION: T13N R39E S32 SENWNW Within Clark County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	05-01 TO 10-31	0.25 CFS
	Stockwater	05-01 TO 10-31	0.05 CFS

PLACE OF USE: Irrigation Within Clark County
T13N R39E S32 SENW 25.0
25.0 Acres Total

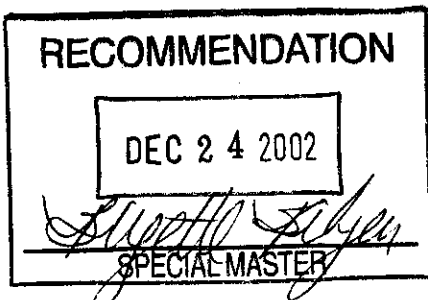
Stockwater Within Clark County
Same as Irrigation

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 25 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 31-00053B, 31-00054B,
31-00055B.

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.

Roger Burdick
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

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FILED
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IDAHO

In Re SRBA)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 31-00055B

NAME AND ADDRESS: JACK R HAMILTON
LELA M HAMILTON
4969 N 5 E
IDAHO FALLS, ID 83401

SOURCE: EAST CAMAS CREEK TRIBUTARY: CAMAS CREEK

QUANTITY: 0.50 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF .50 CFS. COMBINED RIGHT NOS.:
31-00053B, 31-00054B, 31-00055B.

PRIORITY DATE: 05/01/1896

POINT OF DIVERSION: T13N R39E S32 SENWNW Within Clark County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	05-01 TO 10-31	0.05 CFS
	Irrigation	05-01 TO 10-31	0.50 CFS

PLACE OF USE: Irrigation Within Clark County
T13N R39E S32 SENW 25.0
25.0 Acres Total

Stockwater Within Clark County
Same as Irrigation

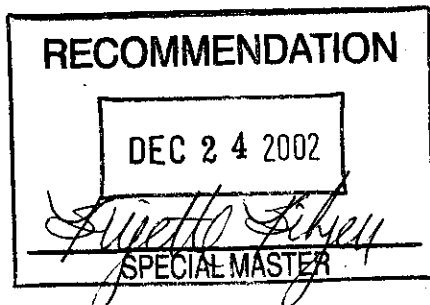
USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 25 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 31-00053B, 31-00054B,
31-00055B.

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.

THE REMAINDER OF THIS RIGHT WAS FORFEITED FOR NON-USE FROM
1982 TO 1987.

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.

Roger Burdick
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

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 31-00055C

2002 DEC 24 AM 10:37

FILED
CLERK OF DISTRICT COURT
TWIN FALLS, IDAHO

NAME AND ADDRESS: MAX SIDDOWNAY
2568 E 100 N
TETON, ID 83451

SOURCE: EAST CAMAS CREEK TRIBUTARY: CAMAS CREEK

QUANTITY: 1.00 CFS

USE OF THIS RIGHT WITH RIGHT NO. 31-00053A IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 1.3 CFS.

PRIORITY DATE: 05/01/1896

POINT OF DIVERSION: T13N R39E S32 SENWNW Within Clark County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	05-01 TO 10-31	0.07 CFS
	Irrigation	05-01 TO 10-31	1.00 CFS

PLACE OF USE: Irrigation Within Clark County
T13N R39E S32 NESW 39.0 NWSE 5.0
SWSE 11.0
55.0 Acres Total

Stockwater Within Clark County
Same as Irrigation

USE OF THIS RIGHT WITH RIGHT NO. 31-00053A IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 55 ACRES 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.

RECOMMENDATION

DEC 24 2002

SPECIAL MASTER

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

SRBA PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 31-00055C File Number: 00110

PAGE 1
Dec-24-2002

2002 DEC 24 AM 10:37

DEPT. OF LAND & WATER
TWIN FALLS, IDAHO
FILED *sc*

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): 31-00053A
31-00053B 31-00054B 31-00055B
31-00055C

On December 24, 2002, Special Master BRIGETTE BILYEU 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 24, 2002.



JANET CONNELL
Deputy Clerk

2002 DEC 24 AM 10:37

FILED
TWIN FALLS CO., IDAHO
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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 31-00053A
31-00053B 31-00054B 31-00055B
31-00055C

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 24, 2002, with sufficient first-class postage prepaid to the following:

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

DAVID J HIRSCHI
HORACE FREDERIKSEN
HOWARD FREDERIKSEN
JOE KNOTWELL
THE ROCKING QUESTION LLC
THE ROCKING QUESTIONS LLC
Represented by:
BLAIR J. GROVER
215 FARNSWORTH WAY
PO BOX 36
RIGBY, ID 83442-0036
Phone: 208-745-6653

CERTIFICATE OF MAILING

PAGE 1
12/24/02

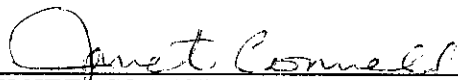
JACK R HAMILTON
LELA M HAMILTON
MAX SIDDOWAY

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JANET CONNELL
Deputy Clerk