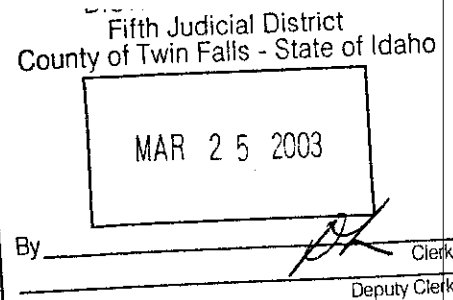




IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
) SPECIAL MASTER'S REPORT
Case No. 39576)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
) FOR WATER RIGHTS 65-03104B, 65-2858A,
) 65-03803C, 65-09417A and 65-10963

I. FINDINGS OF FACT

A notice of claim was filed for the above listed water rights 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* contained a recommendation or abstract for the elements of these water rights.

Water right numbers 65-2858A, 65-03803C, 65-09417A and 65-10963 were unobjected overlapping water rights to water right 65-03104B. On January 17th and 24th, 2002, an objection was filed to water right 65-03104B by the United States Bureau of Reclamation and George Dovel, respectively. Subsequently, a *Standard Form 5* was filed on September 20, 2002 regarding the General Provisions Separate Streams issue. A *Standard Form 5* was filed in water right 65-03104B and the unobjected to overlapping claims on December 20, 2002. The changes in the elements of the unobjected to overlapping water rights consisted of a reduction in acres in 65-02858A, 65-03803C and 65-09417A and changing language and place of use. Reducing quantity in 65-03803C. And changing language and place of use in 65-10963.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Form 5's*, IT IS RECOMMENDED that water rights 65-03104B, 65-2858A, 65-03803C, 65-09417A and 65-10963 be decreed with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED March 25, 2003.


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 65-03104B

2003 MAR 25 AM 11:16

FILED

NAME AND ADDRESS: O & D PARTNERSHIP
PO BOX 366
HORSESHOE BEND, ID 83629

SOURCE: PORTER CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 1.53 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.02 CFS PER ACRE AT FIELD
HEADGATE. COMBINED RIGHT NOS.: 65-02850A, 65-10963

PRIORITY DATE: 01/01/1883

POINT OF DIVERSION: T07N R02E S12 NWSE Within Boise County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	1.53 CFS

PLACE OF USE:	Irrigation	Within Boise County
	T07N R02E S02	SWSE 2.0 SESE 9.0
	S11	NENE 16.0 NWNE 14.0
		SWNE 18.0 SENE 27.0
	86.0 Acres Total	

THE MAXIMUM ANNUAL CONSUMPTIVE USE VOLUME AUTHORIZED FOR
DIVERSION UNDER THIS RIGHT SHALL NOT EXCEED 215 ACRE-FEET, I.E.
86 ACRES X 2.5 AF/ACRE = 215 ACRE FEET.

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

BASIN 65 GENERAL PROVISIONS NO. 3, THE SEPARATE STREAMS GENERAL
PROVISION, DOES NOT APPLY TO APPROPRIATIONS OF WATER AFTER
OCTOBER 18, 1977.

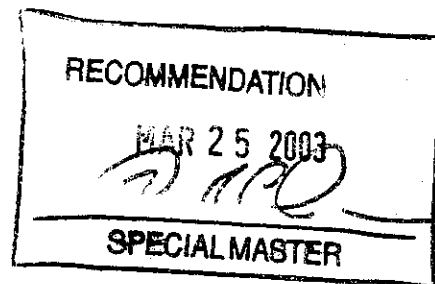
THIS WATER RIGHT SHALL BE ADMINISTERED AS BEING FROM A SEPARATE
SOURCE PURSUANT TO BASIN 65 GENERAL PROVISION NO. 3. IF THE
HOLDER OF THIS RIGHT SEEKS TO CHANGE THE RIGHT PURSUANT TO IDAHO
CODE 42-222 OR SUCCESSOR STATUTE, NOTHING IN THIS GENERAL
PROVISION SHALL PRECLUDE ANY OTHER PERSON OR ENTITY FROM
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.

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
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAR 25 2003

By _____ Clerk
Deputy Clerk

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 65-02858A

NAME AND ADDRESS: O & D PARTNERSHIP
PO BOX 366
HORSESHOE BEND, ID 83629

SOURCE: PAYETTE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 2.57 CFS
634.50 AFY

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.02 CFS AND A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 4.5 AF AT FIELD HEADGATE. COMBINED
RIGHT NOS.: 65-10963, 65-3104B.

PRIORITY DATE: 07/29/1966

POINT OF DIVERSION: T07N R02E S11 LOT 1 (NENW) Within Boise County
LOT 1 (NENW)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	2.57 CFS 634.50 AFY

PLACE OF USE:	Irrigation	Within Boise County
	T07N R02E S02 LOT 7 (SESW) 11.0	SWSE 1.0
		SESE 13.0
	S11 NENE 24.0	NWNE 24.0
		SENE 26.0
	SWNE 18.0	
	LOT 1 (NENW) 24.0	
	141.0 Acres Total	

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

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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.

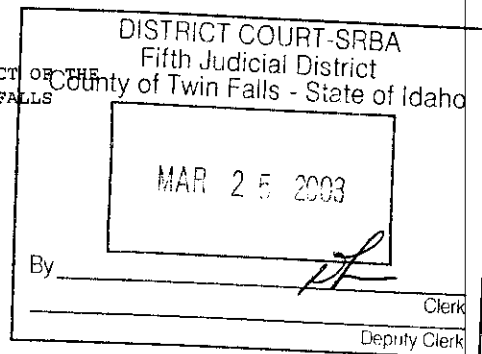
Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

RECOMMENDATION

MAR 25 2003

SPECIAL MASTER

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 65-03803C

NAME AND ADDRESS: O & D PARTNERSHIP
PO BOX 366
HORSESHOE BEND, ID 83629

SOURCE: HILL CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.55 CFS

PRIORITY DATE: 12/23/1988

POINT OF DIVERSION: T07N R02E S02 NESE Within Boise County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	0.55 CFS

PLACE OF USE: Irrigation Within Boise County
T07N R02E S02 SWSE 15.0 SESE 9.0
24.0 Acres Total

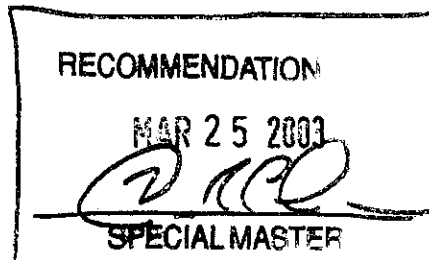
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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.

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 65-09417A

MAR 25 2003

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: O & D PARTNERSHIP
PO BOX 366
HORSESHOE BEND, ID 83629

SOURCE: PAYETTE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 0.98 CFS
220.50 AFY

USE OF THIS RIGHT WITH RIGHT NO. 65-10963 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.02 CFS AND A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 4.5 AF PER ACRE AT FIELD HEADGATE.

PRIORITY DATE: 04/01/1958

POINT OF DIVERSION: T07N R02E S11 LOT 1 (NENW) Within Boise County
LOT 1 (NENW)

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Irrigation 03-15 TO 11-15 0.98 CFS
220.50 AFY

PLACE OF USE: Irrigation Within Boise County
T07N R02E S02 NESW 3.1 LOT 7 (SESW) 11.1
NESE 3.0 NWSE 2.4
SWSE 14.2 SESE 15.2
49.0 Acres Total

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.

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

RECOMMENDATION

MAR 25 2003

SPECIAL MASTER

MAR 25 2003

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 65-10963

By

Clerk

Deputy Clerk

NAME AND ADDRESS: O & D PARTNERSHIP
PO BOX 366
HORSESHOE BEND, ID 83629

SOURCE: PAYETTE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 3.84 CFS
864.00 AFY

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.02 CFS AND TO A TOTAL
COMBINED ANNUAL DIVERSION VOLUME OF 4.5 AF PER ACRE AT FIELD
HEADGATE. COMBINED RIGHT NOS.: 65-2858A, 65-9417A, 65-3104B.

PRIORITY DATE: 07/07/1969

POINT OF DIVERSION: T07N R02E S11 LOT 1 (NENW) Within Boise County
LOT 1 (NENW)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	3.84 CFS 864.00 AFY

PLACE OF USE:	Irrigation	Within Boise County
	T07N R02E S02 LOT 7 (SESW) 13.0	SWSE 20.0
		SESE 20.0
	S11 NENE 35.0	NWNE 34.0
		SWNE 19.0
	LOT 1 (NENW) 18.0	SENE 32.0
		SENE 1.0
	192.0 Acres Total	

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

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Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

RECOMMENDATION

MAR 25 2003

SPECIAL MASTER

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
MAR 25 2003	
By _____	Clerk _____
Deputy Clerk _____	

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): 65-02858A
65-03104B 65-03803C 65-09417A
65-10963

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 March 25, 2003, with sufficient first-class postage prepaid to the following:

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

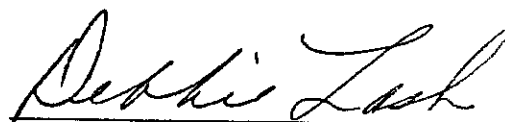
UNITED STATES OF AMERICA
Represented by:
DAVID W GEHLERT
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATRUAL RESOURCE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

O & D PARTNERSHIP
PO BOX 366
HORSESHOE BEND, ID 83629
Phone: 208-793-2699

CERTIFICATE OF MAILING

PAGE 1
03/25/03

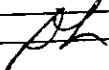
GEORGE DOVEL
434 PIONEER ROAD
HORSESHOE BEND, ID 83629
Phone: 208-793-2768

A handwritten signature in cursive script, reading "Debbie Lash", written over a horizontal line.

DEBBIE LASH
Deputy Clerk

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAR 25 2003

By  Clerk
Deputy Clerk

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): 65-02858A
65-03104B 65-03803C 65-09417A
65-10963

On March 25, 2003, 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 March 25, 2003.


DEBBIE LASH
Deputy Clerk