

2002 NOV -4 PM 1:43

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	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHTS
	)	65-03218, 65-03219A and 65-03219X

I. FINDINGS OF FACT

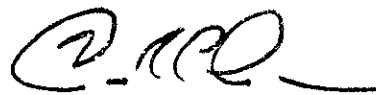
A notice of claim was filed for the above listed water rights pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of these water rights.

On June 9, 2000, the United States of America, Bureau of Reclamation filed a *Motion to File Late Objections* in multiple subcases. The Motion was granted on July 28, 2000. The objections were filed to "General Provisions Basin 65 Irrigation & Other Part II (3) Separate Streams Administration." On September 20, 2002, *Standard Form's 5* were filed. All parties and IDWR are signatures to the *Standard Form's 5*.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Form's 5* and the attached Appendix A, IT IS RECOMMENDED that these water rights be decreed with the elements as set forth in the attached *Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b) for Water Rights 65-03218, 65-03219A and 65-03219X*.

DATED November 4, 2002.



THOMAS R. CUSHMAN
Special Master
Snake River Basin Adjudication

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Oct-21-2002

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 65-03219X

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NAME AND ADDRESS: LAKE IRRIGATION DISTRICT
PO BOX 644
LAKE FORK, ID 83635

SOURCE: LITTLE PAYETTE LAKE TRIBUTARY: LAKE FORK CREEK

QUANTITY: 13000.00 AFY

STORAGE CAPACITY OF LITTLE PAYETTE LAKE IS 21,100 AF.

PRIORITY DATE: 07/18/1919

POINT OF DIVERSION: T17N R03E S03 NESENE (Rediversion) Within Valley County
S10 NWNE (Rediversion)
T18N R03E S13 NWNW
NWSW (Rediversion)
S35 NESWNW (Rediversion)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation Storage	01-01 TO 12-31	13000.00 AFY
	Irrigation from Storage	05-01 TO 09-15	13000.00 AFY

PLACE OF USE:

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 6752 ACRES WITHIN THE BOUNDARIES OF THE LAKE IRRIGATION DISTRICT IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-03218 & 65-03219A.

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

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT THE STORAGE OF SAID WATER BY SAID DEFENDANT LAKE IRRIGATION DISTRICT DURING THE NON-IRRIGATION SEASON, AS HEREIN DEFINED, AND THE SUBSEQUENT USE THEREOF BY SAID DEFENDANT WHEN NEEDED FOR THE IRRIGATION OF ITS LAND WILL IN NO MANNER WHATSOEVER INTERFERE WITH THE RIGHTS OF ANY OF THE OTHER PARTIES HEREIN. SAID LAKE IRRIGATION DISTRICT IS ALSO HEREBY DECREED THE RIGHT TO STORE THE SURPLUS OR FLOOD WATERS DURING THE IRRIGATION SEASON, WITH DATE OF PRIORITY OF AUGUST 18, 1919, AT ANY TIME WHEN SUCH STORING DOES NOT INTERFERE WITH ANY PRIOR RIGHT HEREIN DECREED.

IT IS FURTHER HEREBY ORDERED, AND DECREED THAT BY REASON OF CERTAIN NATURAL STORAGE IN SAID RESERVOIR OF SAID DEFENDANT LAKE IRRIGATION DISTRICT, THE BENEFIT OF WHICH NATURAL STORAGE TO RIGHTS PRIOR TO THE RIGHTS OF SAID DEFENDANT LAKE IRRIGATION DISTRICT HAS BEEN INTERFERED WITH THROUGH THE CONSTRUCTION OF SAID RESERVOIR, THE ADMINISTRATION OF SAID RESERVOIR UNDER THE TERMS OF THIS DECREE SHALL BE SUBJECT TO THE FOLLOWING PROVISIONS:

THAT WHEN THE NATURAL FLOW OF SAID LAKE FORK CREEK AS MEASURED AT THE GAUGING STATION ABOVE SAID RESERVOIR SHALL FIRST FALL BELOW (90) CUBIC FEET PER SECOND DURING THE IRRIGATION SEASON, THEN THERE SHALL BE RELEASED FROM SAID RESERVOIR (DURING THE PERIOD WHEN SUCH NATURAL FLOW SHALL REMAIN BELOW NINETY (90) CUBIC FEET PER SECOND) FOR THE BENEFIT OF RIGHTS PRIOR TO THE RIGHTS OF SAID LAKE IRRIGATION DISTRICT, AN ADDITIONAL AMOUNT OF WATER FROM SAID RESERVOIR EQUAL TO THIRTY PERCENT OF THE WATER FLOWING INTO SAID RESERVOIR AS MEASURED AT SAID GAUGING STATION.

OTHER PROVISIONS (continued)

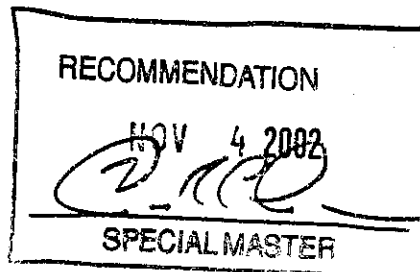
THE RELEASE OF ADDITIONAL WATER ON SUCH THIRTY PERCENT BASIS SHALL BE FOR THE FIRST TEN DAYS OF EACH IRRIGATION SEASON WHEN THE WATER FLOWING INTO SAID RESERVOIR SHALL BE UNDER NINETY (90) CUBIC FEET PER SECOND; THEN FOR THE NEXT FIFTEEN DAYS DURING WHICH THE INFLOW INTO SAID RESERVOIR SHALL BE BELOW NINETY (90) CUBIC FEET PER SECOND THERE SHALL BE RELEASED EACH DAY FROM SAID RESERVOIR, FOR THE BENEFIT OF SAID PRIOR RIGHTS, AN AMOUNT EQUAL TO FORTY PERCENT OF THE NATURAL INFLOW INTO SAID RESERVOIR AS MEASURED AT SAID GAUGING STATION; AND THEREAFTER DURING EACH IRRIGATION SEASON, AFTER THE EXPIRATION OF SAID TEN-DAY PERIOD AND SAID FIFTEEN-DAY PERIOD, WHEN THE INFLOW INTO SAID RESERVOIR SHALL BE BELOW NINETY (90) CUBIC FEET PER SECOND, THERE SHALL BE RELEASED FROM SAID RESERVOIR, FOR THE BENEFIT OF SAID PRIOR RIGHTS, AN ADDITIONAL AMOUNT OF WATER EQUAL TO FIFTY PERCENT OF THE WATER FLOWING INTO SAID RESERVOIR AS MEASURED AT SAID GAUGING STATION. PROVIDED, HOWEVER, THAT THE TOTAL AMOUNT OF THE WATERS DURING EACH IRRIGATION SEASON TO BE RELEASED FROM SAID RESERVOIR FOR THE BENEFIT OF SAID PRIOR RIGHTS SHALL NOT EXCEED 1,390 ACRE FEET, AND WHEN SAID 1,390 ACRE FEET, IN ANY SEASON, HAS BEEN RELEASED FOR THE BENEFIT OF SAID PRIOR RIGHTS, THEN THE OBLIGATION TO RELEASE ANY WATER FROM SAID RESERVOIR FOR THE BENEFIT OF SAID PRIOR RIGHTS SHALL CEASE.

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



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OTHER PROVISIONS (continued)

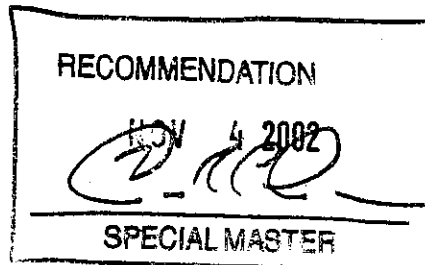
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Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication



APPENDIX A

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.

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In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

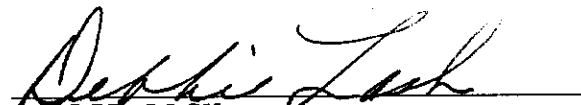
Water Right(s): 65-03218
65-03219A 65-03219X

On November 04, 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 November 04, 2002.


DEBBIE LASH
Deputy Clerk

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In Re SRBA)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 65-03218
65-03219A 65-03219X

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 November 04, 2002, with sufficient first-class postage prepaid to the following:

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

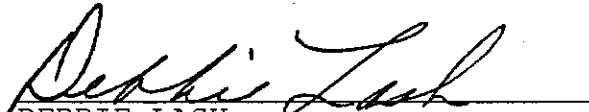
STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

USDI BUREAU OF RECLAMATION
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724
Phone: 208-387-0835

CERTIFICATE OF MAILING

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11/04/02

LAKE IRRIGATION DISTRICT
PO BOX 644
LAKE FORK, ID 83635
Phone: 208-634-9672


DEBBIE LASH
Deputy Clerk