

2002 NOV -4 PM 1:46

FILED
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	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHTS
	)	65-08785, 65-08843, 65-08844,
	)	65-03213A and 65-08418A

I. FINDINGS OF FACT

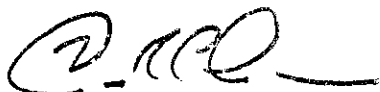
A notice of claim was filed for the above listed water rights pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of these water 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 65-065-08785, 65-08843, 65-08844, 65-03213A and 65-08418A*.

DATED November 4, 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 65-08785

2002 NOV -4 PM 1:47

FILED
TWIN FALLS, IDAHO

NAME AND ADDRESS: IVAN D PHELPS
WILMINA M PHELPS
13508 FARM TO MARKET RD
MC CALL, ID 83638

SOURCE: UNNAMED STREAM TRIBUTARY: BOULDER CREEK

QUANTITY: 0.10 CFS

PRIORITY DATE: 01/01/1960

POINT OF DIVERSION: T17N R03E S25 SWNW Within Valley County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-15	0.10 CFS

PLACE OF USE: Irrigation Within Valley County
T17N R03E S25 NWNW 1.0 SWNW 4.0
5.0 Acres Total

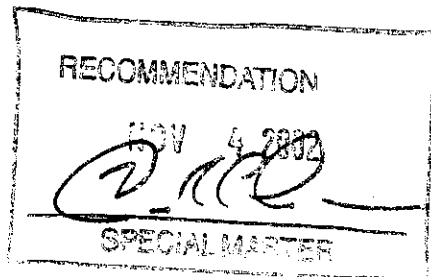
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

2002 NOV -4 PM 1:47

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 65-08843

DEPT. OF LAND & WATER
TWIN FALLS, IDAHO
FILED

NAME AND ADDRESS: IVAN D PHELPS
WILMINA M PHELPS
13508 FARM TO MARKET RD
MC CALL, ID 83638

SOURCE: SPRING TRIBUTARY: BOULDER CREEK

QUANTITY: 0.10 CFS
0.40 APY

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE
SHALL NOT EXCEED 13,000 GALLONS PER DAY.
USE OF THIS RIGHT WITH RIGHT NO. 65-08844 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.50 CFS.

PRIORITY DATE: 06/01/1924

POINT OF DIVERSION: T17N R03E S25 NWNW Within Valley County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-15	0.10 CFS
	Stockwater	01-01 TO 12-31	0.02 CFS
			0.40 APY

PLACE OF USE: Irrigation Within Valley County
T17N R03E S25 NWNW 25.0
25.0 Acres Total

Stockwater Within Valley County
Same as Irrigation

USE OF THIS RIGHT WITH RIGHT NO. 65-08844 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 25 ACRES IN A SINGLE
IRRIGATION SEASON.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 5 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

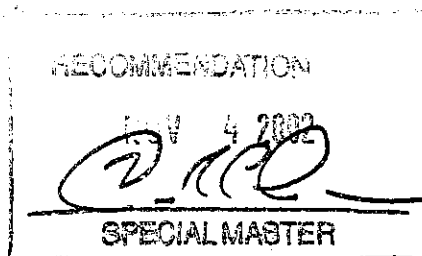
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 65-08844

2002 NOV -4 PM 1:47
FILED
TWIN FALLS CO., IDAHO

NAME AND ADDRESS: IVAN D PHELPS
WILMINA M PHELPS
13508 FARM TO MARKET RD
MC CALL, ID 83638

SOURCE: UNNAMED STREAM TRIBUTARY: BOULDER CREEK

QUANTITY: 0.50 CFS
0.40 APY

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

USE OF THIS RIGHT WITH RIGHT NO. 65-08843 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.50 CFS.

PRIORITY DATE: 06/01/1924

POINT OF DIVERSION: T17N R03E S25 NWNW Within Valley County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-15	0.50 CFS
	Stockwater	01-01 TO 12-31	0.02 CFS
			0.40 APY

PLACE OF USE: Irrigation Within Valley County
T17N R03E S25 NWNW 25.0
25.0 Acres Total
Stockwater Within Valley County
Same as Irrigation

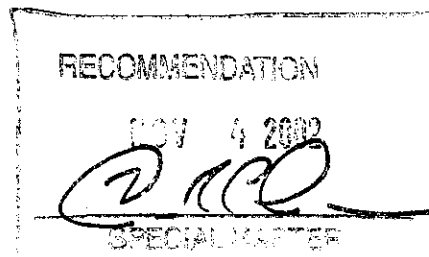
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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
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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 NOV -4 PM 1:47

In Re SRBA)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Case No. 39576)
Water Right 65-03213A

FILED
TWIN FALLS, IDAHO
2002

NAME AND ADDRESS: IVAN D PHELPS
WILMINA M PHELPS
13508 FARM TO MARKET RD
MC CALL, ID 83638

SOURCE: LAKE FORK CREEK TRIBUTARY: PAYETTE RIVER, NORTH FORK

QUANTITY: 0.14 CFS

THIS RIGHT WHEN COMBINED WITH RIGHT NO. 65-08418A SHALL
PROVIDE NO MORE THAN .02 CFS PER ACRE.

PRIORITY DATE: 09/30/1918

POINT OF DIVERSION: T17N R03E S03 NESENE Within Valley County

PURPOSE AND			
PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	05-01 TO 09-15	0.14 CFS

PLACE OF USE: Irrigation Within Valley County
T17N R03E S22 NESW 7.0
7.0 Acres Total

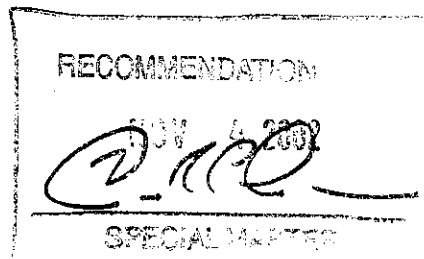
USE OF THIS RIGHT WITH RIGHT NO. 65-08418A IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 7.0 ACRES IN A SINGLE
IRRIGATION SEASON.

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
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Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

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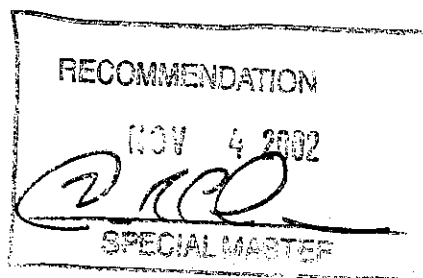
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PAGE 1
Oct-21-2002

RULE 54(b) CERTIFICATE

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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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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)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

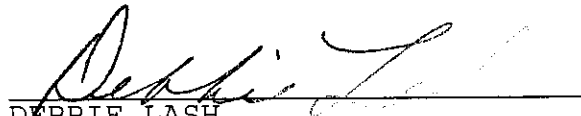
Water Right(s): 65-03213A
65-08418A 65-08785 65-08843
65-08844

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

2002 NOV -4 PM 1:47

DISTRICT COURT - 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): 65-03213A
65-08418A 65-08785 65-08843
65-08844

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

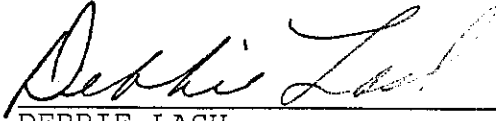
STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

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

PAGE 1
11/04/02

IVAN D PHELPS
WILMINA M PHELPS
13508 FARM TO MARKET RD
MC CALL, ID 83638
Phone: 208-325-8886


DEBBIE LASH
Deputy Clerk