

2002 OCT 16 AM 9:10

FILED
TWIN FALLS CO. IDAHO
DISTRICT COURT - 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 RIGHT 65-03238
	)	

I. FINDINGS OF FACT

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

On June 16, 2000, the United States of America, Bureau of Reclamation filed an objection to "General Provisions Basin 65 Irrigation & Other Part II (3) Separate Streams Administration". On September 20, 2002, a *Standard Form 5* was filed. 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* and the attached Appendix A, IT IS RECOMMENDED that this water right 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 65-03238*.

DATED October 16, 2002.



THOMAS R. CUSHMAN
Special Master
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 65-03238

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OCT 17 2002

Department of Water Resources

NAME AND ADDRESS: CASTLE MOUNTAIN CREEKS OWNERS
HC 76 BOX 4001
GARDEN VALLEY, ID 83622

SOURCE: WARM SPRINGS CREEK TRIBUTARY: PAYETTE RIVER, MIDDLE FORK
UNNAMED STREAM WARM SPRINGS CREEK

QUANTITY: 0.38 CFS
39.70 AFY

THE TOTAL INSTANTANEOUS DIVERSION OF WATER FROM ALL POINTS OF
DIVERSION UNDER TRANSFER 4392 SHALL NOT EXCEED 0.38 CFS, NOT A
TOTAL COMBINED ANNUAL VOLUME OF 39.7 AF.

PRIORITY DATE: 06/01/1883

POINT OF DIVERSION: T10N R04E S31 NESE Within Boise County
S32 NWSE
S33 NWSW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	0.14 CFS 24.50 AFY
	Domestic	01-01 TO 12-31	0.24 CFS 15.20 AFY

PLACE OF USE:	Irrigation	Within Boise County
	T10N R04E S32	SWNE 0.5 SENE 0.5 NESE 0.5 NWSE 0.5 SWSE 0.5 SESE 0.5 S33 SWNW 0.5 SENW 0.5 NESW 0.5 NWSW 1.5 SWSW 0.5 SESW 0.5
	7.0 Acres Total	

	Domestic	Within Boise County
	T10N R04E S32	SWNE SENE NESE NWSE SWSE SESE S33 SWNW SENW NESW NWSW SWSW SESW

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

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

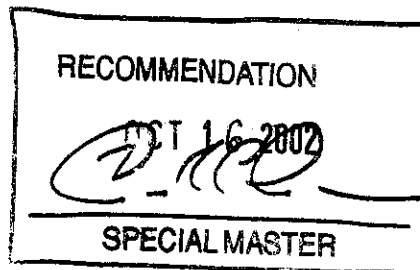
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

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



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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TWIN FALLS CO, IDAHO
FILED *[Signature]*

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

In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 65-03238

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 October 16, 2002, with sufficient first-class postage prepaid to the following:

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

CASTLE MOUNTAIN CREEKS OWNERS

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

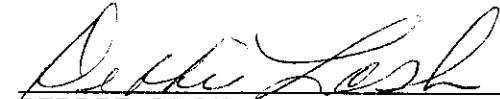
STATE OF IDAHO

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

CERTIFICATE OF MAILING

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10/16/02

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


DEBBIE LASH
Deputy Clerk

