

2002 OCT 28 AM 9:35

57-00261
TWIN FALLS, 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	) Subcase: 57-00261
	)
Case No. 39576	) SPECIAL MASTER'S REPORT AND
	) RECOMMENDATION
	)
	) FINDINGS OF FACT AND
	) CONCLUSIONS OF LAW

I. PROCEDURAL BACKGROUND

A *Partial Decree* was entered for the above-captioned irrigation water right on December 15, 1997. The period of use element was decreed as "irrigation season." In *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998), the Idaho Supreme Court remanded with the directive to include specific dates for the period of use element. Following remand, on July 26, 1999, IDWR filed a *Supplemental Director's Report, Reporting Area 2, IDWR Basin 57, Regarding Revision of Period of Use (For Irrigation Water Uses) and Conjunctive Management General Provisions*, which included an irrigation period of use recommendation for this water right. The recommendation also contained the following "subordination language."

DIVERTING WATER BEFORE OR AFTER THE PERIOD OF USE UNDER
THIS RIGHT IS ALLOWED PROVIDED:

- A. THE WATERS SO DIVERTED ARE APPLIED TO A BENEFICIAL USE, AND
- B. THE EXISTING RIGHTS AND FUTURE APPROPRIATIONS ARE FIRST SATISFIED.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This "subordination language" was recommended by IDWR in an attempt to satisfy the issues raised by the Idaho Supreme Court in *State of Idaho v. Idaho*

Conservation League, 131 Idaho 329, 955 P.2d 1108 (1998), regarding “excess water.” However, because the use of “excess water” is no longer being recommended as a general provision¹, this Special Master finds that the subordination language is no longer necessary and should not be included in the amended partial decree issued for this water right. Furthermore, all objections related to the season of use on Reynolds Creek having been resolved, this Special Master finds that the specific dates for the season of use for this water rights should be decreed as recommended in the *Supplemental Director's Report*.

III. RECOMMENDATION

Therefore, based on the file and record herein, IT IS RECOMMENDED that an amended partial decree be issued for this water right as set forth in the attached *Special Master's Recommendation for Amended Partial Decree Pursuant to I.R.C.P. 54(b) for water right 57-00261*.

Dated October 28, 2002.



THOMAS CUSHMAN
Special Master
Snake River Basin Adjudication

¹ For a comprehensive discussion regarding the “excess water” general provision, see the *Special Master's Report and Recommendation, Findings of Fact and Conclusions of Law, For General Provisions in Basin 57 Designated as Basin-Wide Issue 5-57* (September 11, 2002).

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

AMENDED

In Re SRBA)

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

2002 OCT 28 AM 9:35

Case No. 39576)

Water Right 57-00261

FILED

NAME AND ADDRESS: SEVEN HIGH RANCH INC
HC 79 BOX 44
MELBA, ID 83641

SOURCE: REYNOLDS CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 1.88 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 3.78 CFS, AND A TOTAL ANNUAL
MAXIMUM DIVERSION VOLUME OF 661.5 AF AT THE FIELD HEADGATE.
COMBINED RIGHT NOS.: 57-01067, 57-02187, 57-00253, 57-0268,
57-01065, 57-02170 & 57-01064

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL ANNUAL MAXIMUM DIVERSION VOLUME OF 486.5 AF AT THE FIELD
HEADGATE: 57-01067, 57-02187

PRIORITY DATE: 06/01/1888

POINT OF DIVERSION: T03S R04W S24 SWNE Within Owyhee County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	1.88 CFS 378.00 AFY

PLACE OF USE:	Irrigation	Within Owyhee County
	T02S R04W S35	SESW 13.0 NESE 17.0 SWSE 17.0 SESE 28.0
	T03S R04W S02 LOT 1 (NENE) 13.0 LOT 2 (NWNE) 20.0	
	108.0 Acres Total	

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 139 ACRES IN A SINGLE
IRRIGATION SEASON: 57-1067, 57-2187.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 189 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 57-01067, 57-02187,
57-00253, 57-00268, 57-01065, 57-02170 & 57-01064

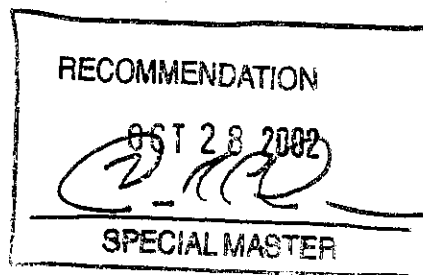
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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



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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): 57-00261

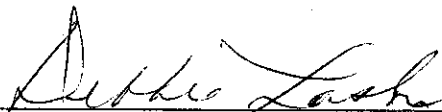
CERTIFICATE OF MAILING

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 28, 2002, with sufficient first-class postage prepaid to the following:

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

SEVEN HIGH RANCH INC
Represented by:
JOHN T. SCHROEDER
PO BOX 267
BOISE, ID 83701-0267
Phone: 208-384-1627

SEVEN HIGH RANCH INC
HC 79 BOX 44
MELBA, ID 83641


DEBBIE LASH
Deputy Clerk

CERTIFICATE OF MAILING

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10/28/02

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THERMAL CO. IDAHO

100-443887-100

Water Right(s) : 57-00261


DEBBIE LASH
Deputy Clerk