

2002 OCT 29 PM 1:13

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 RIGHT 65-02941
_____	)	

I. FINDINGS OF FACT

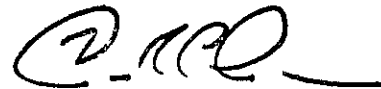
A notice of claim was filed for the above listed water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

On June 16, 2000, the United States of America, Bureau of Reclamation filed objections 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 65-02941*

DATED October 29, 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

2002 OCT 29 PM 1:18

In Re SRBA)

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

Case No. 39576)

Water Right 65-02941

FILED

NAME AND ADDRESS:

STEVEN J MILLEMAN
PO BOX 1066
MC CALL, ID 83638

D JOHN CAREY
15320 PEACH HILL RD
SARATOGA, CA 95070

SOURCE:

WILHELM CREEK

TRIBUTARY: BOULDER CREEK

QUANTITY:

100.00 AFY

PRIORITY DATE:

08/16/1949

POINT OF DIVERSION:

T17N R03E S12

NESW

Within Valley County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

Irrigation from Storage

Irrigation Storage

PERIOD OF USE

04-15 TO 10-15

01-01 TO 12-31

QUANTITY

100.00 AFY

100.00 AFY

PLACE OF USE:

Irrigation Storage

Within Valley County

Same as Irrigation from Storage

Irrigation from Storage

T17N R03E S12

NENE 2.0

NENW 22.0

NESW 10.0

SWSW 30.0

Within Valley County

NWNE 22.0

NWNW 28.0

NWSW 23.0

SESW 38.0

175.0 Acres Total

USE OF THIS RIGHT WITH RIGHT NO. 65-02513 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 175 ACRES IN A SINGLE
IRRIGATION SEASON.

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

WATER IS EXCHANGED WITH ROSEBERRY IRRIGATION DISTRICT.

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).

RECOMMENDATION

OCT 29 2002

SPECIAL MASTER

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.

2002 OCT 29 PM 1:15

FILED
TWIN FALLS CO., IDAHO
10-29-02

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

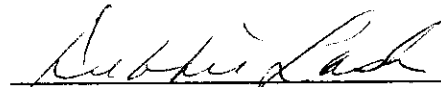
Water Right(s): 65-02941

On October 29, 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 October 29, 2002.


DEBBIE LASH
Deputy Clerk

2002 OCT 29 PM 1:18

SRBA
TWIN FALLS, IDAHO
[Signature]

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)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 65-02941

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 29, 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

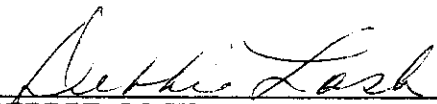
CERTIFICATE OF MAILING

PAGE 1
10/29/02

D JOHN CAREY
C/O BRIAN MC MAHAN
PO BOX 1066
MCCALL, ID 83638
Phone: 208-634-7641

STEVEN J MILLEMANN
PO BOX 1066
MC CALL, ID 83638
Phone: 208-634-7641

D JOHN CAREY
15320 PEACH HILL RD
SARATOGA, CA 95070
Phone: 408-867-9262


DEBBIE LASH
Deputy Clerk