

2004 OCT -1 AM 11:01
FILED
T-SRBA
O. 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	)	FOR WATER RIGHT: 63-00097
	)	
	)	
	)	

I. PROCEDURAL HISTORY

The above-captioned subcase was claimed 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 and filed a *Director's Report*. The *Director's Report* contained a recommendation for this water right.

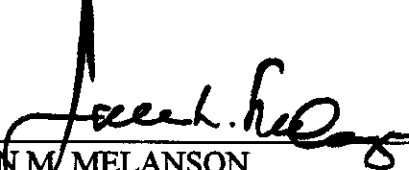
Objections were filed to the recommendation for the above right by the United States, Department of Interior, Bureau of Reclamation (United States) and the Boise Project Board of Control (Board of Control) regarding the season of use, period of year element recommended for the water right. The Idaho Department of Water Resources filed a *Case Management Report* on March 10, 2003 in the above captioned subcase.

On July 6, 2004, the Court rescinded the *Order of Reference to Special Master Thomas Cushman* and set a Status Conference for August 17, 2004. The Court ruled that Judge John M. Melanson would preside over the subcase in the same manner as specified in *Administrative Order 1* for proceedings by Special Masters. A Status Conference was held on August 17, 2004. On September 28, 2004, an Initial Hearing was held. At the Initial Hearing, the Objectors withdrew their objections to the above water right.

II. CONCLUSIONS OF LAW

It appears from the record that all objections have been resolved. Therefore, based on the file and record herein, IT IS RECOMMENDED that the above 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)*.

DATED: October 1, 2004



JOHN M. MELANSON
Presiding Judge
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)
)
Case No. 39576)
)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 63-00097

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TWIN FALLS CO., IDAHO
SRBA

NAME AND ADDRESS: L G DAVISON & SONS INC
1969 PRAIRIE RD
PRAIRIE, ID 83647

SOURCE: SMITH CREEK TRIBUTARY: SOUTH FORK BOISE RIVER

QUANTITY: 8.72 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL
NOT EXCEED 13,000 GALLONS PER DAY.
THIS RIGHT SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE WHEN
MEASURED AT THE FIELD HEAD GATE.

PRIORITY DATE: 08/08/1898

POINT OF DIVERSION: T02N R07E S07 LOT 3 (NENWSW) Within Elmore County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	8.72 CFS
	Stockwater	01-01 TO 12-31	0.14 CFS

PLACE OF USE: Irrigation Within Elmore County

T02N R06E S02	NENW 1.1	LOT 4 (NWNW)13.0
LOT 4 (SWNW) 1.1	LOT 6 (SENW) 6.6	
T03N R06E S34	NENE 8.7	LOT 2 (SWNE)14.0
LOT 1 (SENE)25.0		
S35	NWNW 6.4	SWNW 26.0
	NESW 4.0	LOT 1 (NWSW)16.0
LOT 2 (SWSW) 5.1		
127.0 Acres Total		

Stockwater Within Elmore County
Same as Irrigation

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

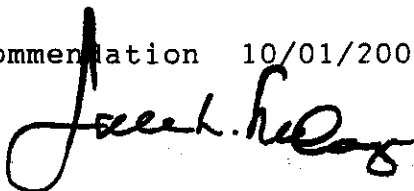
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

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
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.

Recommendation 10/01/2004



John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

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In Re SRBA)
)
Case No. 39576)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

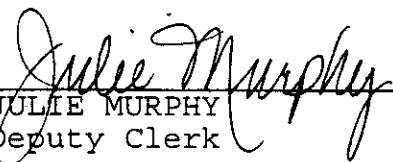
Water Right(s): 63-00097

On October 01, 2004, Special Master JOHN M MELANSON 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 01, 2004.



JULIE MURPHY
Deputy Clerk

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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)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 63-00097

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 01, 2004, with sufficient first-class postage prepaid to the following:

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

L G DAVISON & SONS INC
Represented by:
JAY R FRIEDLY
340 E 2ND N
MOUNTAIN HOME, ID 83647
Phone: 208-587-4412


JULIE MURPHY
Deputy Clerk

CERTIFICATE OF MAILING

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10/01/04