

DISTRICT COURT--SRBA
TWIN FALLS CO., IDAHO
FILED

2004 NOV 5 6 10 56

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 63-30310 &
	)	63-15101

I. FINDINGS OF FACT

A notice of claim was filed for these 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.

An objection was filed by the United States of America, Bureau of Reclamation and an objection was filed by the Boise Project Board of Control. Both objections were filed on January 31, 2003.

On October 4, 2004, Judge Melanson issued an *Order Setting Trial Dates and Deadlines; Order to Show Cause and Notice of Hearing Thereon*, which stated that failure to appear at the *Show Cause* hearing will result in the claimant being deemed to have consented to the settlement language proposed by the objectors. Hearing on the *Order to Show Cause* was set for November 3, 2004. The claimant failed to appear. Accordingly this Special Master found that the claimant has consented to the additional language.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein and pursuant to the findings made at the November 3, 2004, hearing, IT IS RECOMMENDED that water rights 63-30310 and 63-15101 be decreed with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATE November 4, 2004.



THEODORE R BOOTH
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

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

2004 NOV 5 AM 10 56

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 63-15101

NAME AND ADDRESS: STEVEN D CUMMINGS
545 ROBIE CREEK
BOISE, ID 83716

SOURCE: MITCHELL CREEK TRIBUTARY: ROBIE CREEK

QUANTITY: 0.17 CFS

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

PRIORITY DATE: 06/02/1966

POINT OF DIVERSION: T04N R04E S30 SWNWNE Within Boise County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.14 CFS
	Stockwater	01-01 TO 12-31	0.02 CFS
	Domestic	01-01 TO 12-31	0.01 CFS

DIVERSION FOR IRRIGATION UNDER THIS WATER RIGHT PRIOR TO APRIL 1
AND AFTER OCTOBER 31 SHALL OCCUR ONLY AS AUTHORIZED BY THE WATER
DISTRICT 63 WATERMASTER AND ONLY WHEN WATER IS BEING RELEASED
FOR FLOOD CONTROL BY THE UNITED STATES FROM THE LUCKY PEAK DAM
OUTLET UNDER PROCEDURES AND REQUIREMENTS FOR THE MEMORANDUM OF
AGREEMENT BETWEEN THE U.S. DEPARTMENT OF THE ARMY AND THE U.S.
DEPARTMENT OF THE INTERIOR FOR FLOOD CONTROL OPERATIONS OF THE
BOISE RIVER RESERVOIRS, DATED NOVEMBER 20, 1953, THE WATER
CONTROL MANUAL FOR BOISE RIVER RESERVOIR DATED APRIL 1985 AND
ANY FUTURE AMENDMENTS OR REVISIONS MADE THERETO PURSUANT TO
STATE OR FEDERAL PROCEDURES OR LAW; PROVIDED THAT ANY SUCH USE
OF THIS WATER RIGHT PRIOR TO APRIL 1 AND AFTER OCTOBER 31 SHALL
BE SUBORDINATED TO WATER RIGHTS FOR STORAGE IN LUCKY PEAK
RESERVOIR AND/OR LAKE LOWELL AS DECREED IN SRBA CASE NO. 39576

PLACE OF USE:	Irrigation	Within Boise County
	T04N R04E S30	NENW 1.0
		SENEW 3.5
	4.5 Acres Total	
	Stockwater	Within Boise County
	T04N R04E S30	SENEW
	Domestic	Within Boise County
	T04N R04E S30	SENEW

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

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

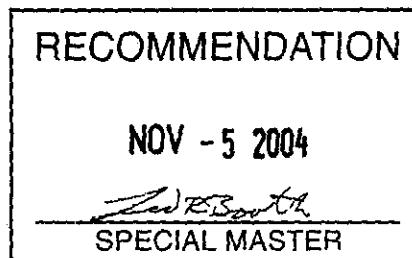
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

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.

John M. Melanson
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

DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO
FILED *PK*

2004 NOV 5 AM 10 56

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 63-30310

NAME AND ADDRESS: STEVEN D CUMMINGS
545 ROBIE CREEK
BOISE, ID 83716

SOURCE: ROBIE CREEK TRIBUTARY: MORES CREEK

QUANTITY: 0.22 CFS

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

PRIORITY DATE: 04/01/1896

POINT OF DIVERSION: T04N R04E S30 NWSENW Within Boise County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.20 CFS
	Stockwater	01-01 TO 12-31	0.02 CFS

DIVERSION FOR IRRIGATION UNDER THIS WATER RIGHT PRIOR TO APRIL 1
AND AFTER OCTOBER 31 SHALL OCCUR ONLY AS AUTHORIZED BY THE WATER
DISTRICT 63 WATERMASTER AND ONLY WHEN WATER IS BEING RELEASED
FOR FLOOD CONTROL BY THE UNITED STATES FROM THE LUCKY PEAK DAM
OUTLET UNDER PROCEDURES AND REQUIREMENTS FOR THE MEMORANDUM OF
AGREEMENT BETWEEN THE U.S. DEPARTMENT OF THE ARMY AND THE U.S.
DEPARTMENT OF THE INTERIOR FOR FLOOD CONTROL OPERATIONS OF THE
BOISE RIVER RESERVOIRS, DATED NOVEMBER 20, 1953, THE WATER
CONTROL MANUAL FOR BOISE RIVER RESERVOIR DATED APRIL 1985 AND
ANY FUTURE AMENDMENTS OR REVISIONS MADE THERETO PURSUANT TO
STATE OR FEDERAL PROCEDURES OR LAW; PROVIDED THAT ANY SUCH USE
OF THIS WATER RIGHT PRIOR TO APRIL 1 AND AFTER OCTOBER 31 SHALL
BE SUBORDINATED TO WATER RIGHTS FOR STORAGE IN LUCKY PEAK
RESERVOIR AND/OR LAKE LOWELL AS DECREED IN SRBA CASE NO. 39576

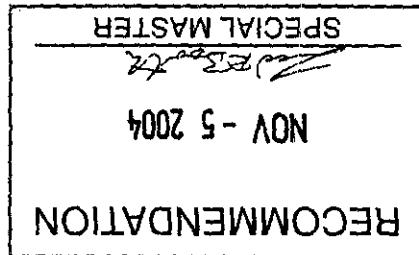
PLACE OF USE: Irrigation Within Boise County
T04N R04E S30 NWNE 0.5 NENW 5.5
SENEW 4.0
10.0 Acres Total

Stockwater Within Boise County
T04N R04E S30 NWNE NENW
SENEW

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).



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

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.

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

2004 NOV 5 AM 10 56

In Re SRBA)
)
Case No. 39576)
)

Water Right(s): 63-15101
63-30310

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 05, 2004, with sufficient first-class postage prepaid to the following:

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

Represented by:
ALBERT P. BARKER
205 N 10TH ST, STE 520
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

Represented by:
ROCHELLE DAVIS
205 N 10TH, STE 520
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

PAGE 1
11/05/04

UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

STEVEN D CUMMINGS
545 ROBIE CREEK
BOISE, ID 83716


DEBBIE LASH
Deputy Clerk

DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED

2004 NOV 5 AM 10 56

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

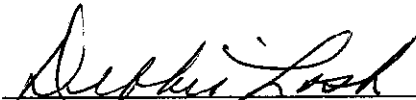
Water Right(s): 63-15101
63-30310

On November 05, 2004, Special Master THEODORE R. BOOTH
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 05, 2004.



DEBBIE LASH
Deputy Clerk