

2005 JUN -5 PM 3:31
DISTRICT COURT - SRBA
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	)	SPECIAL MASTER'S REPORT AND
	)	RECOMMENDATION; FINDINGS OF
Case No. 39576	)	FACT AND CONCLUSIONS OF LAW
	)	
	)	
_____	)	FOR WATER RIGHT: 65-02958

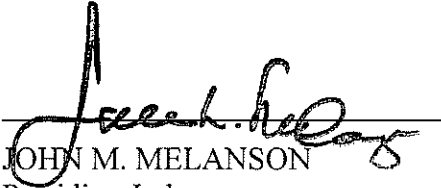
I. FINDINGS OF FACT

A notice of claim was filed for this 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 for the elements of this water right. On October 18, 2000, an objection was filed by the United States of America, Bureau of Reclamation to the above-captioned claim and approximately 200 other similarly situated claims pertaining to the recommended general provision. Subsequently, the Bureau of Reclamation offered to settle its objections through the modification of the language contained in General Provision No. 3. On August 11, 2004, the Court rescinded the order of reference to Special Master Cushman. The claimant had other similarly situated water right claims decreed with the proposed General Provision No. 3. The above-captioned claim was apparently overlooked in the processing of the similarly situated claims. On September 21, 2004, a status conference was held to discuss opposition to the proposal, if any. David Gehlert appeared on behalf of the Bureau of Reclamation, and Chris Bromley appeared on behalf of the Idaho Department of Water Resources. No representative of the claimant appeared at the status conference.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein, IT IS RECOMMENDED that this water right be **decreed** with the elements set forth in the attached *Special Master's Recommendation for Partial Decree*.

Dated January 5, 2005.


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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 65-02958

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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: HELEN E CRUICKSHANK
RT 1 BOX 70
MC CALL, ID 83638

SOURCE: UNNAMED STREAM TRIBUTARY: LAKE FORK CREEK

QUANTITY: 326.00 AFY

PRIORITY DATE: 12/13/1962

POINT OF DIVERSION: T18N R03E S13 SWNE Within Valley County
S35 NESWNW (Rediversion)

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation Storage	01-01 TO 12-31	326.00 AFY
	Irrigation from Storage	04-15 TO 10-15	326.00 AFY

PLACE OF USE: Irrigation Storage Within Valley County
Same as Irrigation from Storage

Irrigation from Storage		Within Valley County
T16N R03E S02	NENE 15.0	
T17N R03E S26	NESW 40.0	SESW 40.0
S35	NENE 35.0	NWNE 39.0
	SWNE 40.0	SENE 33.0
	NENW 40.0	NWNW 38.0
	SWNW 40.0	SENW 40.0
	NESW 40.0	SESW 39.0
	NESE 31.0	NWSE 40.0
	SWSE 39.0	SESE 27.0
616.0 Acres Total		

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 676 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-02926, 65-02942,
65-02955, 65-03179 & 65-03182.

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

BASIN 65 GENERAL PROVISIONS NO. 3, THE SEPARATE STREAMS GENERAL
PROVISION, DOES NOT APPLY TO APPROPRIATIONS OF WATER AFTER
OCTOBER 18, 1977.

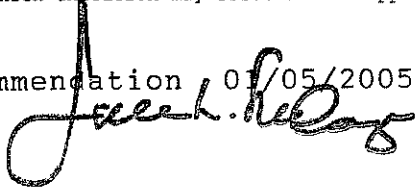
THIS WATER RIGHT SHALL BE ADMINISTERED AS BEING FROM A SEPARATE
SOURCE PURSUANT TO BASIN 65 GENERAL PROVISION NO. 3. IF THE
HOLDER OF THIS RIGHT SEEKS TO CHANGE THE RIGHT PURSUANT TO IDAHO
CODE SEC. 42-222 OR SUCCESSOR STATUTE, NOTHING IN THIS GENERAL
PROVISION SHALL PRECLUDE ANY OTHER PERSON OR ENTITY 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.

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 01/05/2005



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

SPECIAL DISTRICT OF

STRICT
WIN FA

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

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s) : 65-02958

On January 05, 2005, 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 January 05, 2005.

Julie Murphy
JULIE MURPHY
Deputy Clerk

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TWIN FALLS, IDAHO
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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): 65-02958

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 January 05, 2005, 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

CERTIFICATE OF MAILING

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01/05/05

HELEN E CRUICKSHANK
RT 1 BOX 70
MC CALL, ID 83638
Phone: 208-325-8549


JULIE MURPHY
Deputy Clerk