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Department of Water Resources

DISTRICT COURT-SRBA
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

) SPECIAL MASTER'S REPORT

) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW

) FOR WATER RIGHT 61-07189
)
)
)
)
)

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 or abstract for the elements of this water right.

On June 15, 1999, Magic West filed an *Objection* in the above listed water right, objecting to "quantity" and "period of use."

All objections to this water right were resolved by stipulation of the parties with a *Standard Form 5*. All parties to the subcase and IDWR are signatories to the *Standard Form 5*.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein, 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 61-07189*.

DATED October 30, 2001.


THOMAS R. CUSHMAN

Special Master

Snake River Basin Adjudication

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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)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I R C P. 54(b) FOR
Water Right 61-07189

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DISTRICT COURT-SRBA
TWIN FALLS CO, IDAHO
FILED *[Signature]*

NAME AND ADDRESS: MAGIC WEST INC
PO BOX 475
RUPERT, ID 83350

SOURCE: GROUNDWATER

QUANTITY: 0.67 CFS
58.00 AFY

USE OF THIS RIGHT WITH RIGHT NO. 61-02248B IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.67 CFS

PRIORITY DATE: 07/10/1974

POINT OF DIVERSION: 1055 R10E S29 SWSE Within Elmore 0002 County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Industrial	08-15 TO 07-01	0.67 CFS 58.00 AFY

INDUSTRIAL USE IS FOR POTATO PROCESSING PLANT

PLACE OF USE: Industrial Within Elmore 0002 County
1055 R10E S29 SWSE

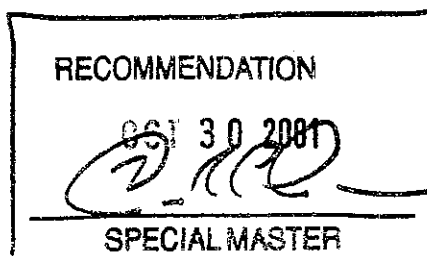
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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.R.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): 61-07189

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 30, 2001, with sufficient first-class postage prepaid to the following:

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

BATRUEL DAIRY
Represented by:
MATT J. HOWARD
2402 W JEFFERSON
BOISE, ID 83702
Phone: 208-333-0622

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

CERTIFICATE OF MAILING

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CLERK OF DISTRICT COURT

MAGIC WEST INC
Represented by:
NORMAN M. SEMANKO
ATTORNEY AT LAW
410 S ORCHARD, STE 144
BOISE, ID 83705
Phone: 208-344-6690


DEBBIE LASH
Deputy Clerk

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DISTRICT COURT-SRBA
TWINFALLS 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)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

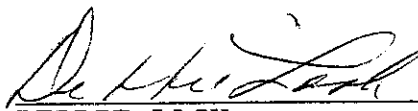
Water Right(s): 61-07189

On October 30, 2001, 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 30, 2001.



DEBBIE LASH
Deputy Clerk