

DISTRICT COURT SRBA  
TWIN FALLS CO IDAHO  
FILED

2005 SEP 1 3 2 AM 10 30 28  
2005 Sept 1

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 65-22759, 65-          |
|                | ) | 22760, 65-22761, 65-22762, and 65-22763 |

I. FINDINGS OF FACT

A notice of claim was filed for each of the above listed 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 each of these water rights.

On May 14, 2004, the claimants of the water rights, Cheryl and George Colwell, through their counsel of record Dana Hofstetter, filed objections to the *Director's Report*. On May 3, 2005, the claimants filed a *Standard Form 5 – Stipulated Elements of a Water Right* for each of the water right claims, thereby resolving the claimant's objections. The Idaho Department of Water Resources concurred with the stipulations.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Form 5's*, IT IS RECOMMENDED that water rights 65-22759, 65-22760, 65-22761, 65-22762, and 65-22763 be **decreed** with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated August 31, 2005.



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 *CK*

In Re SRBA )  
 ) PARTIAL DECREE PURSUANT TO  
 ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
 )  
 ) Water Right 65-22759

2005 SEP 1 AM 10 30

NAME AND ADDRESS: CHERYL F COLWELL  
GEORGE E COLWELL  
3990 HWY 52  
PAYETTE, ID 83661

SOURCE: UNNAMED SLOUGH TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.44 CFS

USE OF THIS RIGHT WITH RIGHT NO. 65-11211 IS LIMITED TO A TOTAL  
COMBINED DIVERSION RATE OF 1.34 CFS.

PRIORITY DATE: 06/01/1932

POINT OF DIVERSION: T08N R04W S20 LOT 3 (NENW ) Within Payette County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Stockwater     | 01-01 TO 12-31 | 0.44 CFS |

| PLACE OF USE: | Stockwater    | Within Payette County |
|---------------|---------------|-----------------------|
|               | T08N R04W S17 | SWSW                  |
|               | S19 LOT 8     | (NENE)                |
|               | S20           | NENW LOT 6 (NWNW)     |
|               |               | SWNW SENW             |

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

The quantity of water decreed for this water right 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.

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

RECOMMENDATION

SEP - 1 2005

*Joe B. Smith*  
SPECIAL MASTER

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 *[Signature]*

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

PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 65-22760

2005 SEP 1 AM 10 30

NAME AND ADDRESS: CHERYL F COLWELL  
GEORGE E COLWELL  
3990 HWY 52  
PAYETTE, ID 83661

SOURCE: PAYETTE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 0.88 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL  
COMBINED DIVERSION RATE OF 32.67 CFS. COMBINED RIGHT NOS.:  
65-3617, 65-8627, 65-11261, 65-22760.

PRIORITY DATE: 04/01/1890

POINT OF DIVERSION: T08N R04W S35 SWSE Within Payette County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Stockwater     | 01-01 TO 12-31 | 0.88 CFS |

| PLACE OF USE: | Stockwater    |      | Within Payette County |
|---------------|---------------|------|-----------------------|
|               | T08N R04W S17 | SWSW | SWSE                  |
|               | S19           | NENE |                       |
|               | S20           | NENE | NWNE                  |
|               |               | SWNE | SENE                  |
|               |               | NENW | NWNW                  |
|               |               | SWNW | SENW                  |
|               |               | NESE | NWSE                  |
|               |               | SWSE | SESE                  |
|               | S21           | SWNE | NWNW                  |
|               |               | SWNW | SENW                  |
|               |               | NESW | NWSW                  |
|               |               | SWSW | SESW                  |
|               |               | NESE | NWSE                  |
|               |               | SWSE | SWSE                  |
|               |               | SESE |                       |
|               | S22           | SWSW | SESW                  |
|               | S27           | NENW | NWNW                  |
|               |               | SWNW | SENW                  |

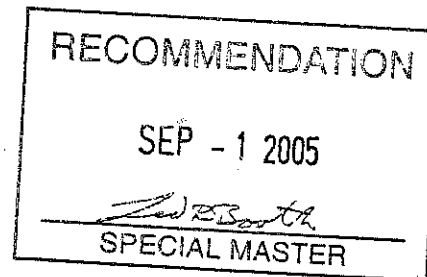
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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  
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\_\_\_\_\_  
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 *[Signature]*

2005 SEP 1 AM 10 30

In Re SRBA )  
Case No. 39576 )  
PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 65-22761

NAME AND ADDRESS: CHERYL F COLWELL  
GEORGE E COLWELL  
3990 HWY 52  
PAYETTE, ID 83661

SOURCE: UNNAMED SLOUGH TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.02 CFS

The quantity of water under this right shall not exceed 13,000  
gallons per day.

PRIORITY DATE: 06/01/1932

POINT OF DIVERSION: T08N R04W S17 LOT 2 (SESW ) (Instream Ending Point) Within Payette County  
S20 LOT 3 (SENW ) (Instream Beginning Point)

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Stockwater     | 01-01 TO 12-31 | 0.02 CFS |

PLACE OF USE: Stockwater Within Payette County  
T08N R04W S17 LOT 2 (SESW)  
S20 NENW  
LOT 3 (SENW) NWNW

Place of use includes unsurveyed accretion land.

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

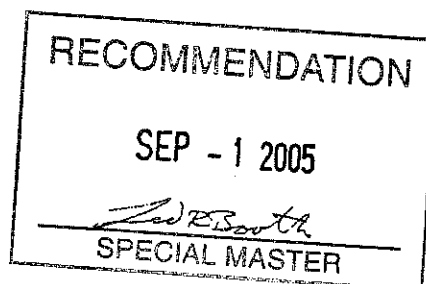
The quantity of water decreed for this water right is not a  
determination of historical beneficial use.

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  
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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

DISTRICT COURT-SRBA  
TWIN FALLS IDAHO  
FILED                     

2005 SEP 1 AM 10 30

In Re SRBA )  
                  )  
Case No. 39576 )  
                  )  
                  ) Water Right 65-22762

NAME AND ADDRESS: CHERYL F COLWELL  
GEORGE E COLWELL  
3990 HWY 52  
PAYETTE, ID 83661

SOURCE: BIG WILLOW CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.44 CFS

PRIORITY DATE: 04/01/1890

POINT OF DIVERSION: T08N R04W S19 NENE (Instream Ending Point) Within Payette County  
S22 LOT 7 (SESW) (Instream Beginning Point)

Ending point of diversion is in unsurveyed accretion land.

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Stockwater     | 01-01 TO 12-31 | 0.44 CFS |

| PLACE OF USE: | Stockwater       | Within Payette County |
|---------------|------------------|-----------------------|
|               | T08N R04W S17    | SWSW LOT 2 (SESW)     |
|               |                  | SWSE                  |
|               | S19              | NENE LOT 8 (NENE)     |
|               | S20 LOT 1 (NENE) | LOT 7 (NENE)          |
|               | LOT 7 (NENE)     | LOT 6 (NWNW)          |
|               | S21              | SWNE NWNW             |
|               | LOT 5 (SWNW)     | SESW                  |
|               |                  | NWSE                  |
|               | S22              | NWSW LOT 6 (SWSW)     |
|               | LOT 7 (SESW)     |                       |

Place of use includes unsurveyed accretion land.

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

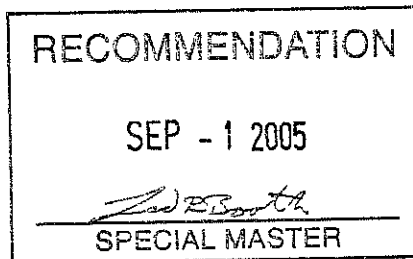
The quantity of water decreed for this water right is not a determination of historical beneficial use.

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



DISTRICT COURT - SRBA  
TWIN FALLS CO., IDAHO  
FILED                     

Water Right 65-22763

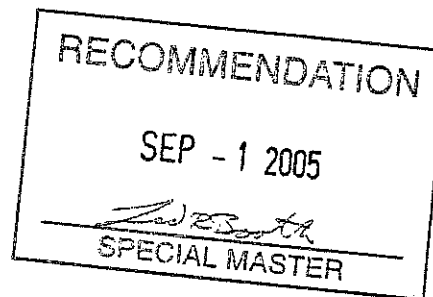
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RULE 54(b) CERTIFICATE

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



2005 SEP 1 AM 10 30

In Re SRBA )  
 )  
Case No. 39576 )  
 )

Water Right(s): 65-22759  
65-22760 65-22761 65-22762  
65-22763

  
DEBBIE LASH  
Deputy Clerk

2005 SEP 1 AM 10 30

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

Water Right(s): 65-22759  
65-22760 65-22761 65-22762  
65-22763

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.

  
DEBBIE LASH  
Deputy Clerk