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Documents

In File

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 65-22588
Date Received: 7/27/2001
Receipt No: X999999
Received By:

AMENDED

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s)

ROSEBERRY IRRIGATION DISTRICT Phone: (208)325-8768

PO BOX 366
DONNELLY ID USA 83615

ROSEBERRY IRRIGATION DISTRICT Phone: (208)325-8876

C/O JOE ELD
2554 E ROSEBERRY
MC CALL ID USA 83638

2. Date of Priority: 06/25/1902

3. Source: BOULDER CREEK Trib. to: PAYETTE RIVER NORTH FORK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
17N	03E	13	NW SE	VALLEY	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
STOCKWATER	01/01	12/31	2.2	

7. Total Quantity Appropriated is:
2.2 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:
Number of other uses: 10,000 Range Cattle

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
----------	-------	---------	------------	-----	-----	-------

11. Place of use in counties:

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

 This claim is based on right no. 65-3114.

15. Basis of Claim: Decreed

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 65-22588
Date Received:
Receipt No: X999999
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

JUL 27 2001

WATER RESOURCES
WESTERN REGION

1. Name of Claimant(s)

ROSEBERRY IRRIGATION DISTRICT Phone: (208)325-8768
PO BOX 366
DONNELLY ID USA 83615
(Roseberry Irrigation District) JE
C/O JOE ELD Phone: (208)325-8876
2554 E ROSEBERRY
MC CALL ID USA 83638

2. Date of Priority: 06/25/1902

3. Source: BOULDER CREEK Trib. to: PAYETTE RIVER NORTH FORK

4. Point of Diversion: *JE*

Township	Range	Section	~~1/4~~	of 1/4	of 1/4	Lot	County	Type
17N	03E	13					NW SE	VALLEY

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
STOCKWATER	01/01	12/31	2.2	

7. Total Quantity Appropriated is:
2.2 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:
Number of other uses: 10,000 Range Cattle

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
----------	-------	---------	------------	-----	-----	-------

11. Place of use in counties:

12. Do you own the property listed above as place of use? ~~Yes~~ *JE* *No*

13. Other Water Rights Used:

14. Remarks:

This claim is based on right no. 65-3114.

15. Basis of Claim: Decreed

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

For Organizations:

I do solemnly swear or affirm that I ~~am~~ Joe Eld, am President of
Title
Roseberry Irrigation District, that I have signed the foregoing

Organization
document in the space below as President of

Title
Roseberry Irrigation District and that the statements contained in the
Organization
foregoing document are true and correct.

Joe Eld
Signature of Authorized Agent
President, Roseberry Irrigation District
Title and Organization
July 18, 2001
Date

State of Idaho)
County of Valley) SS.

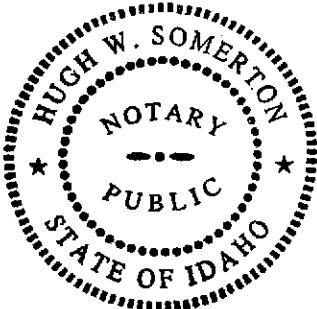
Subscribed and sworn (or affirmed) before me this
of 7/18 2001

[Signature]

Notary Public

Residing at Dunnell

My commission Expires 11/18/2006



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

AMENDED

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 65-22588

2004 AUG 19 PM 4:41
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED *M*

NAME AND ADDRESS: ROSEBERRY IRRIGATION DISTRICT
C/O JOE ELD
2554 E ROSEBERRY
MC CALL, ID 83638

ROSEBERRY IRRIGATION DISTRICT
PO BOX 366
DONNELLY, ID 83615

SOURCE: BOULDER CREEK TRIBUTARY: NORTH FORK PAYETTE RIVER

QUANTITY: 2.20 CFS

PRIORITY DATE: 06/25/1902

POINT OF DIVERSION: T17N R03E S13 NWSE Within Valley County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	2.20 CFS

PLACE OF USE:
WITHIN THE BOUNDARIES OF THE ROSEBERRY IRRIGATION DISTRICT
The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) (2003) and authorized pursuant to I.C. Section 42-1411 (2) (h) (2003). The data comprising the digital boundary are incorporated herein by reference and are stored on a cd-rom disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

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.

Basin 65 General Provisions No. 3, the Separate Streams General Provision, does not apply to appropriations of water after October 18, 1977.

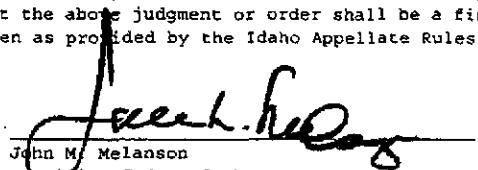
This water right shall be administered as being from a separate source pursuant to Basin 65 General Provision No. 3. If the holder of this right seeks to change the right pursuant to Idaho Code Section 42-222 or successor statute, nothing in this general provision shall preclude any other person or entity 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.

Stockwater use is for 10,000 range cattle.

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

DISTRICT COURT SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
MAR 30 2004	
By _____	Clerk Deputy Clerk

**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 65-22588, 65- 22589, 65-22590
	)	

I. FINDINGS OF FACT

A notice of claim was filed for the above 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 for the elements of this water right.

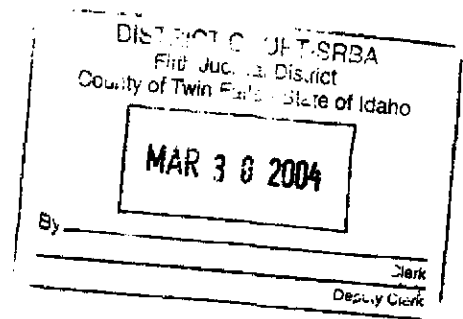
An objection was filed to the rights by the United States through the Department of Interior, Bureau of Reclamation. Subsequently, on November 18, 2002, a *Stipulation and Agreement* was filed by the claimant and the objector. A *Standard Form 5/ Stipulated Elements of a Water Right* signed by the claimant and the objector was filed on March 25, 2003.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein and pursuant to the *Standard Form 5*, 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: March , 2004.


 THOMAS R CUSHMAN
 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

In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

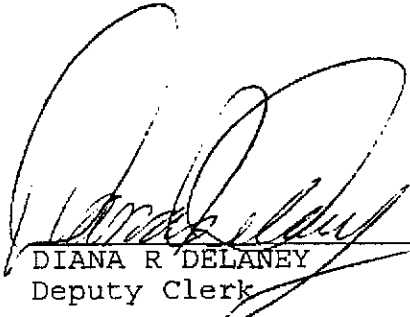
Water Right(s): 65-22588
65-22589 65-22590

On March 30, 2004, 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.

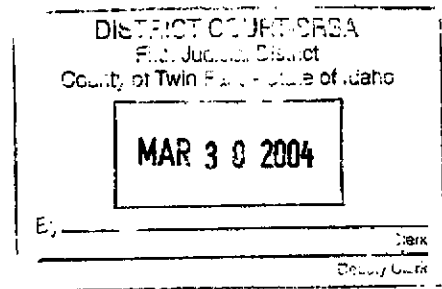
Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

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 March 30, 2004.



DIANA R. DELANEY
Deputy Clerk



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): 65-22588
65-22589 65-22590

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 March 30, 2004, with sufficient first-class postage prepaid to the following:

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

ISLAND CAPITOL LLC
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702
Phone: 208-424-7800

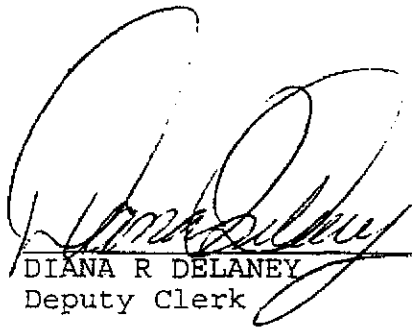
UNITED STATES OF AMERICA
Represented by:
DAVID W GEHLERT
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

CERTIFICATE OF MAILING

PAGE 1
03/30/04

ROSEBERRY IRRIGATION DISTRICT
C/O JOE ELD
2554 E ROSEBERRY
MC CALL, ID 83638
Phone: 208-325-8876

ROSEBERRY IRRIGATION DISTRICT
PO BOX 366
DONNELLY, ID 83615
Phone: 208-325-8768



DIANA R DELANEY
Deputy Clerk

RECEIVED

MAR 25 2002

Department of Water Resources

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)

A. Subcase 65-22588

(Insert water right number
From the Objection Form)

STANDARD FORM 2
RESPONSE TO OBJECTION

Please print or type the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: Island Capitol, LLC
Address: 1409 East 1st Street
Meridian, ID 83642
Daytime Phone: (208) 288-0100

Name & Address of Attorney, if any:
Dana L. Hofstetter, ISB # 3867
Hofstetter Law Office, LLC
608 West Franklin Street
Boise, ID 83702
(208) 424-7800

C. NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION TO
WHICH YOU ARE RESPONDING

Name: United States of America acting through the Department of Interior,
Bureau of Reclamation, Regional Director PN Code-3100
Address: 1150 N. Curtis Rd., Suite 100
Boise, ID 83706-1234

RECEIVED

MAR 27 2002

WATER RESOURCES
WESTERN REGION

D. I am responding to the objections to the following elements. (Please check the appropriate box(es)).

X		General Provision Basin 65 Irrigation & Other Part III (3) Separate Streams
1.	☐	Name and Address
2.	☐	Source
3.	☐	Quantity
4.	☐	Priority Date
5.	☐	Point(s) of Diversion
6.	☐	Instream Flow Description
7.	☐	Purpose(s) of Use
8.	☐	Period of Year
9.	☐	Place of Use
11.		Recommendation
	☐	This water right should not exist.
	☐	This water right was not recommended, but should be recommended with the elements described above.

E. VERIFICATION (Must be Completed)

State of Idaho)
) ss:
County of Ada)

Dana L. Hofstetter duly sworn, upon oath, deposes and says:
(Name of person filing response)

That I am the party/claimant filing this response as defined by I.C. § 42-1401A(1) and (6) or that I am the attorney for the party/claimant responding and that I have read this response, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing response)

Alma S. Saperstein
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: March 22, 2002

Sue E. Gibernier
Notary Public for the State of Idaho
Residing at: Boise Idaho
My Commission Expires: 10/11/2006

INSTRUCTIONS FOR MAILING

You must mail the response, including all attachments, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

F. CERTIFICATE OF MAILING

I certify that on March 22, 2002, I caused to be hand delivered the original and caused to be mailed copies of this response, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name:	Roseberry Irrigation District	Roseberry Irrigation District c/o Joe Eld
Address:	P.O. Box 366 Donnelly, ID 83615	2554 E Roseberry McCall, ID 83638

3. One copy to the party who filed the objection at the following address:

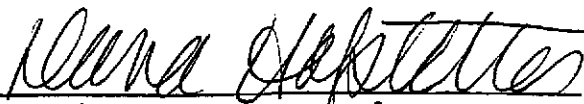
Name: David W. Gehlert
Trial Attorney, General Litigation Section
Environment and Natural Resource Division
U. S. Department of Justice
Address: 999 18th Street, Suite N 945
Denver, CO 80202
(208) 644-1967

4. Copies to:

IDWR Document Depository
P. O. Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449


Your signature or signature of attorney
mailing on your behalf

RECEIVED

JAN 24 2002

WATER RESOURCES
WESTERN REGION

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

A. Subcase 65-22588

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America acting through the Department of Interior,
Bureau of Reclamation, Regional Director PN Code-3100

Address: 1150 N. Curtis Rd. Suite 100
Boise, Idaho 83706-1234

Daytime Phone: (208) 678-0461 (Dala Walton)

Name & Address of Attorney, if any:

David W. Gehlert (303 312-7352)

Trial Attorney, General Litigation Section

Environment and Natural Resource Division

U.S. Department of Justice

999 18th Street, Suite N 945

Denver, CO 80202

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Roseberry Irrigation District

Roseberry Irrigation District

Address: PO Box 366

c/o Joe Eld

Donnelly, ID 83615

2554 E Roseberry

McCall, ID 83638

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

- ☒ **General Provision Basin 65 Irrigation & Other Part III (3) Separate Streams**
1. ☐ **Name and Address**
Should be:
 2. ☐ **Source**
Should be:
 3. ☐ **Quantity**
Should be:
 4. ☐ **Priority Date**
Should be:
 5. ☐ **Point(s) of Diversion**
Should be:
 6. ☐ **Instream Flow Description**
Should be:
 7. ☐ **Purpose(s) of Use**
Should be:
 8. ☐ **Period of Year**
Should be:
 9. ☐ **Place of Use**
Should be:
11. **I object because:**
- ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described.

E. REASONS SUPPORTING EACH OBJECTION(S):

The Bureau of Reclamation objects to the separate stream provision of the Director's Report for Basin 65, Part III. These streams should be administered as part of the Payette River System in order to adequately protect water rights in the Payette River subbasin.

F.

VERIFICATION (Must be Completed)

State of Idaho

)

) ss.

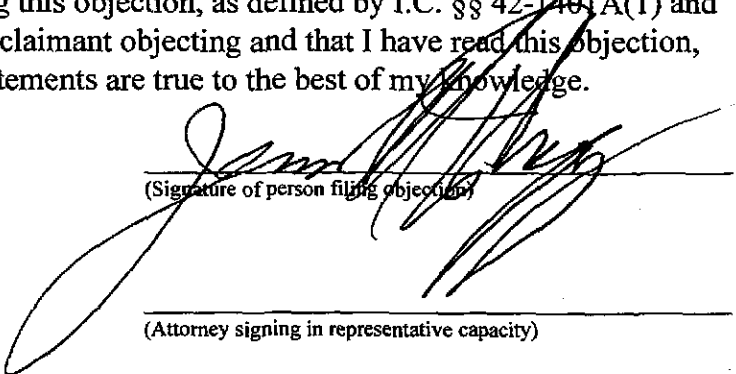
County of Ada

)

Jerrold D. Gregg, duly sworn, upon oath, deposes and says:

(Name of person filing objection)

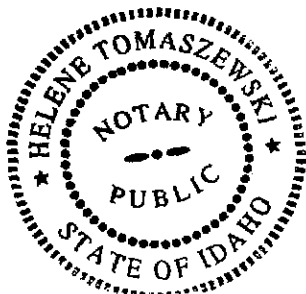
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

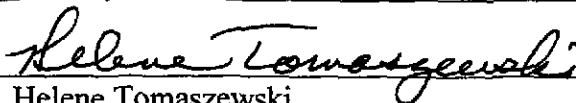

(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

January 9, 2002




Helene Tomaszewski

Notary Public for: Idaho

Residing at: Meridian

My Commission Expires: 01-16-2002

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on January 17, 2002, I mailed the original and copies of this objection, including all attachments, to the following persons, by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID. 83303-2707

2. One copy to the claimant of the water right at the following address:

Name:	Roseberry Irrigation District	Roseberry Irrigation District c/o Joe Eld
Address:	PO Box 366 Donnelly, ID 83615	2554 E Roseberry McCall, ID 83638

3. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

IDWR Document Depository
P.O. Box 83720
Boise, Idaho 83720-0098

United States Department of Justice
Environment and Natural Resource Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724


Signature of Objector or attorney mailing on Objector's behalf

RIGHT NUMBER: 65-22588

NAME AND ADDRESS: ROSEBERRY IRRIGATION DISTRICT
PO BOX 366
DONNELLY ID 83615

ROSEBERRY IRRIGATION DISTRICT
C/O JOE ELD
2554 E ROSEBERRY
MC CALL ID 83638

SOURCE: BOULDER CREEK

TRIBUTARY: NORTH FORK PAYETTE RIVER

QUANTITY: 2.20 CFS

PRIORITY DATE: 06/25/1902

POINT OF DIVERSION:

T17N R03E S13 NWSE Within VALLEY County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

STOCKWATER

01/01 12/31

2.200 CFS

PLACE OF USE:

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. SECTION 42-1412(6), IDAHO CODE.
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.
Stockwater use is for 10,000 range cattle.

EXPLANATORY MATERIAL: Decreed