

2005 NOV 7 PM 4 55

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

	)	SPECIAL MASTER'S REPORT
	)	
In Re SRBA	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	ORDER VACATING EVIDENTIARY
	)	HEARING
	)	
Case No. 39576	)	ORDER RE: WITHDRAWAL OF
	)	MOTION TO ALTER OR AMEND
	)	
	)	FOR WATER RIGHTS 65-05033C, 65-
	)	03681, 65-22621

I. PROCEDURAL HISTORY AND FINDINGS OF FACT

A notice of claim was filed for 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 these water rights.

On June 30, 2004, Special Master Cushman issued a *Special Master's Report* in the above-captioned subcases. The procedural history to that date was contained therein and will not be repeated here. On July 27, 2004, the State of Idaho, by and through Deputy Attorney General David Barber, filed a *Motion to Alter or Amend Special Master's Report and Recommendation*. On July 28, 2004, objector Kyle Ellis, by and through counsel Gale Merrick, filed a *Motion to Alter or Amend Special Master's Recommendation*. On October 14, 2004, Presiding Judge Melanson referred these subcases to this Special Master. On March 25, 2005, this Special

Master issued a *Memorandum Decision and Order allowing presentation of Additional Evidence Regarding Enlargement; Order Requesting 706 Report*. On April 8, 2005, the Idaho Department of Water Resources issued its *Second Supplemental Director's Report*.

On November 3, 2005, the parties to these subcases, with the exception of Kyle Ellis (See section II below regarding Mr. Ellis), filed *Standard Form 5's* in each subcase. The essence of the stipulation is that the Claimants, Fredrick and Gloria. Ringel, will have the right to irrigate 32 acres in T11N R04E section 6, with water diverted from Chipps Creek, under water right number 65-05033C. However, the purposes of use under water rights 65-05033C and 65-03681 do not include a right to store water. Finally, the parties to the subcases have agreed that water right claim 65-22621 should be disallowed.

Based upon the resolution whereunder the subject water rights do not include the right to store water, this Special Master finds that the water rights, as recommended herein, do not create an enlargement as that term is defined under Idaho Law. Furthermore, this Special Master finds that the irrigation of land in section 6 as described above is consistent with Idaho Law.

II. ORDER RE: WITHDRAWAL OF MOTION TO ALTER OR AMEND

On October 27, 2005, Kyle Ellis, through counsel, filed a *Notice of Withdrawal of Motion to Alter or Amend Special Master's Recommendation*. Based upon that withdrawal, the following are **hereby ordered**:

1. Mr. Ellis' *Motion to Alter or Amend Special Master's Recommendation* is **dismissed with prejudice**.
2. Mr. Ellis is **dismissed as a party** to the above-captioned subcases, and the Clerk of the Court is instructed to remove Mr. Ellis from the certificate of mailing.
3. Each party to bear their own costs and fees relative to Mr. Ellis' participation in these subcases.

Please be advised that the Evidentiary Hearing set for November 18, 2005, in Boise, Idaho is **vacated**.

III. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Form's 5*, IT IS RECOMMENDED that water rights 65-05033C and 65-03681 be **decreed** with the elements as set forth in the attached *Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b)*. It is further recommended that the SRBA District Court enter a final order **disallowing** water right claim 65-22621.

Dated November 8, 2005

A handwritten signature in black ink, appearing to read 'Theodore R. Booth', written over a horizontal line.

Theodore R. Booth
Special Master
Snake River Basin Adjudication

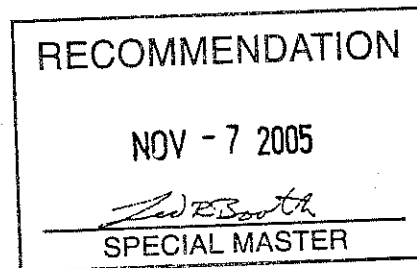
DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO
FILED

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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 *[Signature]*

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

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 65-03681

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NAME AND ADDRESS: FREDRICK D RINGEL
GLORIA J RINGEL
PO BOX 582
CASCADE, ID 83611

SOURCE: CHIPPS CREEK TRIBUTARY: CAMP CREEK

QUANTITY: 0.76 CFS

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

PRIORITY DATE: 01/15/1898

POINT OF DIVERSION: T11N R04E S07 NENE Within Valley County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-15	0.64 CFS
	Stockwater	01-01 TO 12-31	0.12 CFS
			6.70 APY

PLACE OF USE: Irrigation Within Valley County
T11N R04E S07 NENE 32.0
32.0 Acres Total

Stockwater Within Valley County
Same as Irrigation

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).

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

NOV - 7 2005

[Signature]
SPECIAL MASTER

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

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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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 65-03681
65-05033C 65-22621

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 November 07, 2005, with sufficient first-class postage prepaid to
the following:

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

FREDRICK D & GLORIA J RINGEL
FREDRICK D RINGEL
GLORIA J RINGEL
Represented by:
CHARLES L. HONSINGER
455 S THIRD ST
PO BOX 2773
BOISE, ID 83701-2773
Phone: 208-342-4591

CERTIFICATE OF MAILING

PAGE 1
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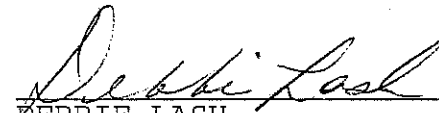
JAMES E & CAROLYN D KLING
JAMES E & CAROLYN KLING

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DEBBIE LASH
Deputy Clerk

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In Re SRBA)
)
Case No. 39576)
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Water Right(s): 65-03681
65-05033C 65-22621


DEBBIE LASH
Deputy Clerk