

DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO
FILED
2005 DEC 20 PM 1 45

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 RIGHT 85-02072
	)	

I. FINDINGS OF FACT

A notice of claim was filed for the above listed 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 May 27, 2005, the United States of America, Department of Interior, Bureau of Reclamation, filed an objection to the *Director's Report*, asserting that period of use should be March 15 to November 15 (3-15 to 11-15). An initial hearing was held on the objection on October 13, 2005, at which the claimant of the water right, Mike Walton (hereinafter "Claimant") failed to appear.

On October 25, 2005, this Special Master issued an *Order to Show Cause*, the purpose of which was to provide the Claimant with a final opportunity to oppose the objection despite having failed to appear at the initial hearing. The *Order to Show Cause* was mailed to the claimant at his/her last known mailing address. The *Order to Show Cause* stated that failure to appear at the scheduled hearing would result in the Claimant being deemed to have consented to the 3-15 to 11-15 period of use. A hearing on the *Order to Show Cause* was held on December 13, 2005, at which the Claimant failed to appear, either in person or through counsel.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Order to Show Cause*, IT IS RECOMMENDED that water right 85-02072 be **decreed** with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated December 19, 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 *[Signature]*

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In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 85-02072

NAME AND ADDRESS: MIKE WALTON
922 GUN CLUB RD
LEWISTON, ID 83501

PAT R COTRONEO
930 LAPWAI RD
LEWISTON, ID 83501

SOURCE: LINDSAY CREEK TRIBUTARY: CLEARWATER RIVER

QUANTITY: 0.22 CFS

PRIORITY DATE: 09/12/1925

POINT OF DIVERSION: T35N R05W S04 LOT 4 (NWNW) Within Nez Perce County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.22 CFS

PLACE OF USE: Irrigation Within Nez Perce County
T35N R05W S04 LOT 4 (NWNW) 6.5
6.5 Acres Total

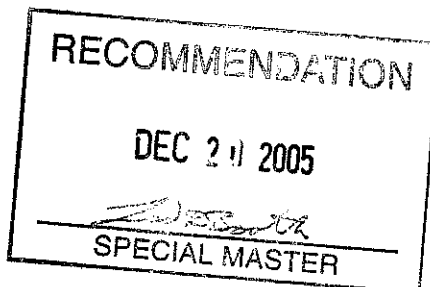
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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.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



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In Re SRBA)
)
Case No. 39576)

)

CERTIFICATE OF MAILING

Water Right(s): 85-02072

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 December 20, 2005, with sufficient first-class postage prepaid to
the following:

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

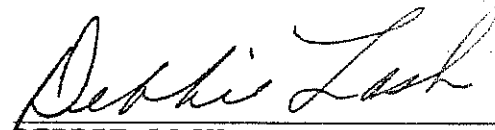
USDI BUREAU OF RECLAMATION
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

MIKE WALTON
922 GUN CLUB RD
LEWISTON, ID 83501
Phone: 208-743-1750

CERTIFICATE OF MAILING

PAGE 1
12/20/05

PAT R COTRONEO
930 LAPWAI RD
LEWISTON, ID 83501
Phone: 208-743-7835

A handwritten signature in cursive script, reading "Debbie Lash", written in black ink.

DEBBIE LASH
Deputy Clerk

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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In Re SRBA)
)
Case No. 39576)
)

)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

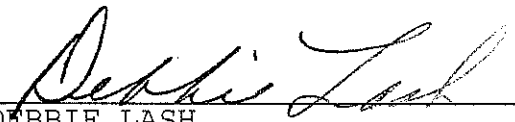
Water Right(s): 85-02072

On December 20, 2005, Special Master THEODORE R. BOOTH
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 December 20, 2005.



DEBBIE LASH
Deputy Clerk