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OCT 25 2007

DEPARTMENT OF  
WATER RESOURCES

DISTRICT COURT - SRBA  
TWIN FALLS CO., IDAHO  
FILED \_\_\_\_\_

2007 OCT 24 PM 1 31

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

) AMENDED<sup>1</sup> SPECIAL MASTER'S  
) REPORT  
)  
) FINDINGS OF FACT AND  
) CONCLUSIONS OF LAW  
)  
) FOR WATER RIGHTS 65-02585,  
) 65-03114, 65-03115, and 65-03116

I. FINDINGS OF FACT

*Partial Decrees* were issued for the above captioned water rights on November 2, 2004. On May 25, 2007, the claimant of the water right, the Roseberry Irrigation District, through its attorney Dana Hofstetter, filed a *Motion to Set Aside Partial Decrees and Memorandum in Support*, seeking to have the *Partial Decree* re-issued and amended so as to include a shoulder remark allowing subordinated late-season irrigation. On September 20, 2007, the Idaho Department of Water Resources filed *Amended Director's Reports* for each of the rights, which recommended said shoulder remark.

The amendment of these *Partial Decrees* arises from a negotiated settlement of an issue regarding an "early and late season irrigation" general provision recommended by the IDWR in the Basin 65 *Director's Reports*. This Special Master previously issued a notice of intent that such a general provision not be decreed in the SRBA (Subcase 91-65). The Roseberry Irrigation District objected thereto, and the amendment of the above-captioned *Partial Decrees* resolves the last remaining issue regarding the Basin 65 General Provisions.

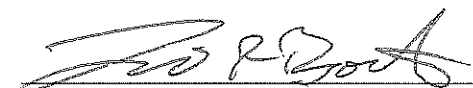
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<sup>1</sup> A Special Master's Report and Recommendation was filed on September 28, 2007. However, this amended report is necessary because the first report contained clerical errors that apparently stemmed from the Court's IWATRS computer system.

## II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that *Amended Partial Decrees* be issued for water rights 65-02585, 65-03114, 65-03115, and 65-03116 with the elements as set forth in the attached *Recommendations for Amended Partial Decrees Pursuant to I.R.C.P. 54(b)*.

Dated October 24, 2007



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

AMENDED

In Re SRBA )  
Case No. 39576 )  
PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 65-02585

FILED  
2007 OCT 24 PM 1 31

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

ROSEBERRY IRRIGATION DIST  
PO BOX 366  
DONNELLY, ID 83615

SOURCE: WILLOW CREEK TRIBUTARY: NORTH FORK PAYETTE RIVER

QUANTITY: 5.00 CFS

PRIORITY DATE: 05/30/1954

POINT OF DIVERSION: T16N R03E S11 SESE Within Valley County

PURPOSE AND

| PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|----------------|----------------|----------------|----------|
|                | Irrigation     | 04-15 TO 10-15 | 5.00 CFS |

The use of water for irrigation under this right may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE:

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2826 ACRES WITHIN THE BOUNDARIES OF THE ROSEBERRY IRRIGATION DISTRICT IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-03114, 65-03115, 65-03116

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) and authorized pursuant to I.C. Section 42-1422(2)(h). 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:

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.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

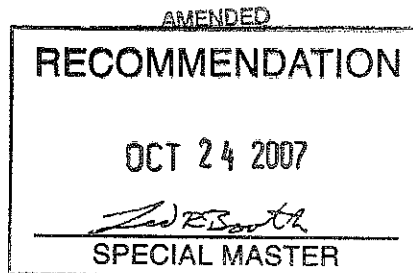
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT  
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY  
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE  
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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



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

AMENDED

DISTRICT COURT - SRBA  
TWIN FALLS CO., IDAHO  
FILED

2007 OCT 24 PM 1 31

In Re SRBA )  
Case No. 39576 )  
PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 65-03115

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

ROSEBERRY IRRIGATION DIST  
PO BOX 366  
DONNELLY, ID 83615

SOURCE: BOULDER LAKE TRIBUTARY: BOULDER CREEK

QUANTITY: 1207.00 AFY

PRIORITY DATE: 01/12/1917

POINT OF DIVERSION: T17N R03E S13 NWSE (Rediversion) Within Valley County  
T18N R04E S27 NESE

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE          | PERIOD OF USE  | QUANTITY    |
|-------------------------------|-------------------------|----------------|-------------|
|                               | Irrigation from Storage | 04-15 TO 10-15 | 1207.00 AFY |
|                               | Irrigation Storage      | 01-01 TO 12-31 | 1207.00 AFY |

The use of water for irrigation from storage under this right may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE:

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2826 ACRES WITHIN THE BOUNDARIES OF THE ROSEBERRY IRRIGATION DISTRICT IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-03114, 65-03116, 65-02585.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 2,719 ACRES WITHIN THE BOUNDARIES OF THE ROSEBERRY IRRIGATION DISTRICT IN A SINGLE IRRIGATION SEASON  
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) and authorized pursuant to I.C. Section 42-1422(2)(h). 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:

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

OTHER PROVISIONS (continued)

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.

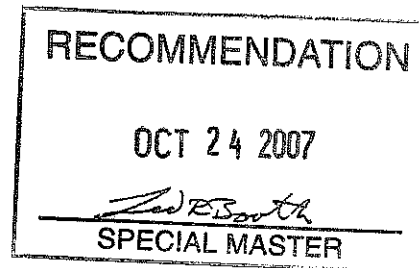
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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

AMENDED



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 )  
Case No. 39576 )  
\_\_\_\_\_ )

PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 65-03116

DISTRICT COURT - SRBA  
TWIN FALLS CO., IDAHO  
FILED  
2007 OCT 24 PM 1 31

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

ROSEBERRY IRRIGATION DIST  
PO BOX 366  
DONNELLY, ID 83615

SOURCE: BOULDER CREEK TRIBUTARY: NORTH FORK PAYETTE RIVER

QUANTITY: 48.72 CFS

PRIORITY DATE: 01/12/1917

POINT OF DIVERSION: T17N R03E S13 NWSE Within Valley County

PURPOSE AND

| PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY  |
|----------------|----------------|----------------|-----------|
|                | Irrigation     | 04-15 TO 10-15 | 48.72 CFS |

The use of water for irrigation under this right may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE:

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2826 ACRES WITHIN THE BOUNDARIES OF THE ROSEBERRY IRRIGATION DISTRICT IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-03114, 65-03115, 65-02585.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 2,719 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON

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) and authorized pursuant to I.C. Section 42-1422(2)(h). 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:

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OTHER PROVISIONS (continued)

TO ITS WATER RIGHT OR FROM RECEIVING ANY RELIEF PROVIDED BY LAW  
IN THE EVENT OF INJURY.

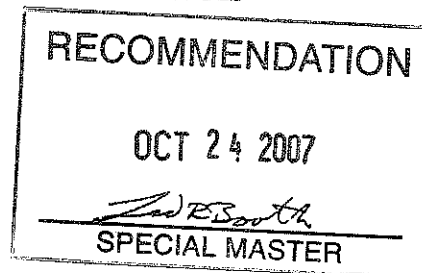
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS  
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT  
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY  
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\_\_\_\_\_  
John M. Melanson  
Presiding Judge of the  
Snake River Basin Adjudication

AMENDED



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

AMENDED

DISTRICT COURT - CNDA  
TWIN FALLS CO., IDAHO  
FILED

2007 OCT 24 PM 1 31

In Re SRBA )  
 ) PARTIAL DECREE PURSUANT TO  
 ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
 )  
 ) Water Right 65-03114

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

ROSEBERRY IRRIGATION DIST  
PO BOX 366  
DONNELLY, ID 83615

SOURCE: BOULDER CREEK TRIBUTARY: NORTH FORK PAYETTE RIVER

QUANTITY: 50.00 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  |
|----------------|----------------|----------------|-----------|
|                | Irrigation     | 04-15 TO 10-15 | 50.00 CFS |

The use of water for irrigation under this right may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

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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) and authorized pursuant to I.C. Section 42-1422(2)(h). 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.

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SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

TO ITS WATER RIGHT OR FROM RECEIVING ANY RELIEF PROVIDED BY LAW  
IN THE EVENT OF INJURY.

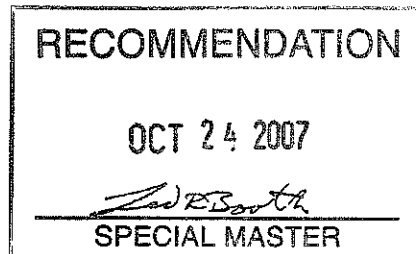
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NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT  
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY  
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ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

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

AMENDED



DISTRICT COURT - SRBA  
TWIN FALLS CO., IDAHO  
FILED \_\_\_\_\_

2007 OCT 24 PM 1 31

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

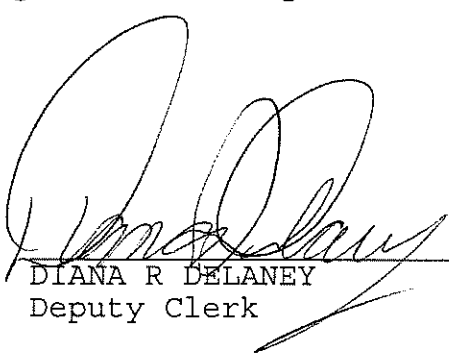
Water Right(s): 65-02585  
65-03114 65-03115 65-03116

On October 24, 2007, Special Master JOHN M MELANSON  
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 24, 2007.

  
\_\_\_\_\_  
DIANA R DELANEY  
Deputy Clerk

DISTRICT COURT - SRBA  
TWIN FALLS CO., IDAHO  
FILED \_\_\_\_\_

2007 OCT 24 PM 1 31

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): 65-02585  
65-03114 65-03115 65-03116

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 24, 2007, with sufficient first-class postage prepaid to the following:

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

BLACK CANYON IRRIGATION DISTRI

Represented by:  
CHARLES F MC DEVITT  
420 W BANNOCK ST  
PO BOX 2564  
BOISE, ID 83701  
Phone: 208-343-7500

CERTIFICATE OF MAILING

PAGE 1  
10/24/07

EASTERN WESTERN CORPORATION  
ROSEBERRY IRRIGATION DIST  
ROSEBERRY IRRIGATION DISTRICT

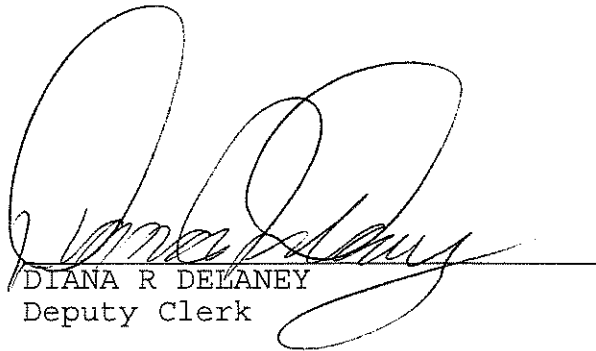
Represented by:  
DANA L. HOFSTETTER  
608 WEST FRANKLIN STREET  
BOISE, ID 83702  
Phone: 208-424-7800

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

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

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

JOE ELD  
2554 E ROSEBERRY  
MC CALL, ID 83638  
Phone: 208-325-8876



DIANA R DELANEY  
Deputy Clerk