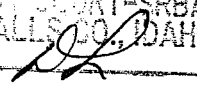


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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED 

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 57-07153
	)	

I. FINDINGS OF FACT

A notice of claim was filed for the above-captioned water right pursuant to I.C. § 42-1409 (1990). The basis of the claim was an unperfected water right permit issued by the Idaho Department of Water Resources ("IDWR"). On October 13, 1992, IDWR issued a *Director's Report for Reporting Area 2 (Basin 57)*, which contained a recommendation for this water right. No objections were filed to this *Director's Report*.

A *Partial Decree* was entered for the water right on February 9, 1998. The period of use element for "irrigation from storage" was decreed as "irrigation season." In *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998), the Idaho Supreme Court remanded with the directive to include specific dates for the period of use element. Following remand, on July 26, 1999, IDWR filed a *Supplemental Director's Report, Reporting Area 2, IDWR Basin 57, Regarding Revision of Period of Use (For Irrigation Water Uses) and Conjunctive Management General Provisions*, which included an irrigation period of use recommendation of May 1 to October 1 for the water right.

On September 2, 1999, Ron Cunningham, President of Succor Creek District Improvement Co., filed an objection to the *Supplemental Director's Report* for the water right, objecting to the recommended period of use.

On October 19, 2000, IDWR issued a *Water Right License* for the water right.

On May 9, 2001, the objector filed a Standard Form 5 ("SF-5"), with which IDWR concurred. The SF-5 stipulated to a period of use for irrigation from storage of April 1 to

October 31.

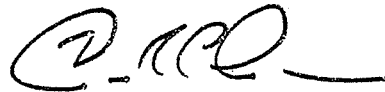
The SF-5 also contained other changes that are inconsistent with the previously issued *Partial Decree*. Specifically, the SF-5 listed the legal description of the place of use as it appears on the *License* issued on October 19, 2000, whereas the *Partial Decree* simply stated that the "place of use includes the irrigation of 2258 acres within the state of Oregon. The SF-5 (as well as the *License*) also states the place of use to be 2550.1 acres rather than 2258 acres. The SF-5 also contained some additional remarks that are not present in the *Partial Decree*.

No party has moved to set-aside the previously issued *Partial Decree*.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein, IT IS RECOMMENDED that the *Partial Decree* issued on February 9, 1998, be amended to include a period of use April 1 to October 31 for irrigation from storage. Because no party has moved to set aside the *Partial Decree*, no other changes or amendment should be made thereto.

DATED February 21, 2002.



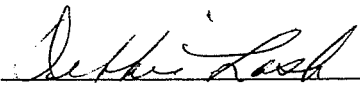
THOMAS R. CUSHMAN
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of SPECIAL MASTER'S REPORT was mailed on February 21, 2002, with sufficient first-class postage prepaid to the following:

Director of IDWR
PO Box 83720
Boise, ID 83720-0098

Cliff Bentz
Attorney at Law
PO Box 450
Fruitland, ID 83619



Deputy Clerk