

No Color  
Documents  
In File

SEP 15 11 54 AM  
DISTRICT COURT  
TWIN FALLS, IDAHO

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

|                       |   |                                 |
|-----------------------|---|---------------------------------|
| <b>In Re SRBA</b>     | ) | <b>ORDER OF PARTIAL DECREE</b>  |
|                       | ) |                                 |
| <b>Case No. 39576</b> | ) | <b>For Water Right 43-02692</b> |
|                       | ) |                                 |

---

On September 17, 1999, a *Special Master's Report and Recommendation* was filed for the above water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 43-02692 is hereby **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED SEP 15 1999



BARRY WOOD  
Administrative District Judge and  
Presiding Judge of the  
Snake River Basin Adjudication

ORDER OF PARTIAL DECREE

MICROFILMED  
OCT 29 2003

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 )  
 ) PARTIAL DECREE PURSUANT TO  
 ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
 ) Water Right 43-02692

NAME AND ADDRESS: USDI BLM  
IDAHO STATE OFFICE  
1387 S VINNELL WAY  
BOISE, ID 83709-1657

SOURCE: GROUNDWATER

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 08/16/1963

POINT OF DIVERSION: T14S R27E S12 NESWSE Within Cassia County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Stockwater     | 01-01 TO 12-31 | 0.02 CFS |

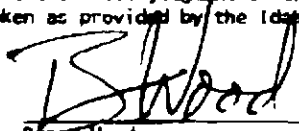
| PLACE OF USE: | Stockwater    |      | Within Cassia County |
|---------------|---------------|------|----------------------|
|               | T13S R27E S26 | SESE |                      |
|               | T14S R27E S01 | SWSW |                      |
|               | S12           | NWSE | SWSE                 |
|               | S14           | NENE |                      |

## 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.  
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.

  
Barry Wood  
Administrative District Judge  
Presiding Judge of the  
Snake River Basin Adjudication

1999 DEC 15 PM 02:00  
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 )

CERTIFICATE OF MAILING

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

Water Right(s): 43-02692

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE  
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 43-02692 was mailed  
on December 15, 1999, with sufficient first-class postage prepaid  
to the following:

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

USDI BLM

Represented by:  
US DEPARTMENT OF JUSTICE  
ENVIRONMENT & NATL' RESOURCES  
550 WEST FORT STREET, MSC 033  
BOISE, ID 83724  
Phone: 208-387-0835

DIANA DELANEY  
Chief Deputy Clerk

CERTIFICATE OF MAILING  
MICROFILMED

OCT 29 2003

PAGE 1  
12/15/99



State of Idaho

## DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098  
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: [www.idwr.state.id.us](http://www.idwr.state.id.us)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

May 29, 2003

UNITED STATES OF AMERICA ACTING THROUGH  
USDI BUREAU OF LAND MANAGEMENT  
IDAHO STATE OFFICE  
1387 S VINNELL WY  
BOISE ID 83709-1657

RE: Transfer No.: 70507 - Water Right 43-2692 - Transfer Approval Notice

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's homepage on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

MICROFILMED

OCT 29 2003

If you have any questions, please contact me at 208-327-7940.

Sincerely,

*for*   
Jeff Peppersack, Manager  
Water Rights Permits Section

JP:klt

Enclosure(s)

Cc: US DEPT OF INTERIOR

MICROFILMED

OCT 29 2003

## CERTIFICATE OF SERVICE

I hereby certify that on May 29, 2003 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

RE: TRANSFER NO. 70507 - WATER RIGHT 43-2692

UNITED STATES OF AMERICA ACTING THROUGH  
US DEPT OF INTERIOR  
BUREAU OF LAND MANAGEMENT  
1387 S VINNELL WY  
BOISE ID 83709-1657

US DEPT OF INTERIOR  
BUREAU OF LAND MANAGEMENT  
15 E 200 S  
BURLEY ID 83318



Kari Lynn Townsend  
Secretary

MICROFILMED  
OCT 29 2003

**EXPLANATORY INFORMATION  
TO ACCOMPANY A  
PRELIMINARY ORDER**

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

**PETITION FOR RECONSIDERATION**

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

**EXCEPTIONS AND BRIEFS**

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

**REQUEST FOR HEARING**

Unless a right to a hearing before the department or the Idaho Water Resource Board (Board) is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

**ORAL ARGUMENT**

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

**CERTIFICATE OF SERVICE**

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

### FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

### APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MICROFILMED  
OCT 29 2013

**MAY 28 2003**

## FILE PROGRESS SUMMARY

T# 70507

APPLICANT: USDI - BLM

WATER RIGHT NO. 43-2692

[illegible]

70507

# Transfer Review Sheet

Applicant

BLM

Transfer #

70507

## Rights Involved with Transfer:

WR#

43-2692

AJ#

Right ID Correct?

Y

or N

Y or N

Y or N

Y or N

Y or N

Y or N

Split?

Y or N

Y or N

Y or N

Y or N

Y or N

Y or N

Unchanged #

Changed #

Area of Concern:

## Comment Letters:

Date Requested

Date Received

Watermaster: District

Fish & Game

Canal Company

Stream Channel

City

DEQ

County

Department of Ag

Other

## SDE:

Right Number

43-2692

POD ID #

588844

Shape  
Updated

✓

POU ID #

678169

Shape  
Updated

✓

70507

**Conditions:****GROUNDWATER:**

DRILLING PERMIT

DP upgrade req'd Y 046 N (contact GW)

WMD

≤ 0.24 cfs/5 acres

&gt; 0.24 cfs/5 acres

~~WMD~~

≤ 0.24 cfs/5 acres

&gt; 0.24 cfs/5 acres

- North/East/West

- No MD

- 067

- No MD

- 01M or 01Q

**SURFACE WATER:**

WD

≤ 0.20 cfs/others

&gt; 0.20 cfs

WD, SPRINGS/SINK, INACTIVE WD &amp; REST OF STATE

≤ 0.24 cfs/5 acres

&gt; 0.24 cfs/5 acres

- R05

- R02, 01P or No MD

- R43

- No MD

- 01M or 01Q

STANDARD SEASON \_\_\_\_\_ to \_\_\_\_\_ (use X61 if extended season)

STANDARD VOLUME \_\_\_\_\_ af/ac

CONSUMPTIVE USE VOLUME \_\_\_\_\_ af/ac

**SUPPLEMENTAL****SUPPLEMENTAL****WITHIN ESPA**

- 065-104 (where irrigation is the only use)

- 100-105 (where there are other uses besides irrigation)

- 113-114-116 (mitigation)

- 115 (meas. Device for non-irrig uses or new irrig systems)

- 131 (existing irrig systems)

**USES:**

STORAGE

IRR ≤ 5 ac

&gt; 5 ac

Volume only

STOCKWATER

MINING- 054-106

FISH PROP

HEAT/COOL

FIRE PROT.

DAIRY

- 18C-R02-01P-18B-NA

- R66/R67/R68/R69 (0.03 cfs/ac)

- R62/R63/R64/R65 (0.02 cfs/ac)

- R58/R59/R60/R61

- R37 (all BLM/USFS)

- 029 (70's basins only)-007-122-106

- R07 (injection well)

- 077

- 082 (zoning if a concern)-106-WD8

**USES:**

POWER

MUNICIPAL

Restricted area

Irr., GW supp to SW

DOMESTIC

Surface water

&gt;1 in restricted area

Irr use listed separate

- 17H-17K (+uses)-025-106

- 022-075

- 007-109-X64

- 102

- WB5 (Big Wood or Boise above Star Bridge)

- 27A (Payette River)

- 070-071-075 (no parks/common areas, etc)

- WB5

**MISC CONDITIONS/REMARKS:**

T07 - 1 yr to develop

T08 - comply or rescind

T17 - &gt;1 pd, measure all (use w/ WB4)

T18 - Special T17 & R43 combined -  
multiple pds in WD

Protested - 020-X19

Water Quality - 106-R07

X27 - Number of acres/season in ppu

X35 - Combined totals of multiple rts

083 - replaces C11 (enlargement rights)

X49 - measure p/d's (source chg'd to orig trib)

X51 - 2+ yrs to develop

X53 - Use ltd to orig. source availability

X54 - forfeited ac/rate (used rarely)

X55 - (transfer shrinks total water to less ac)

004 - no right-of-way

X58 - pending claim (statutory or AJ b/u claim)

X61 - extended irr season

X62 - replaces N11 and N13

X63 - replaces C12

WB4 - + p/ds, cfs &amp; afa (used with T17)

WD8 - land application of waste water

01Q - used instead of 01M when there's another meas. Cond (i.e. T17 &amp; 01M)

**Apply one to chg'd & unchg'd  
rts that are subject to SRBA:**T09 - on-going SRBA (no Dir Rpt  
yet)T19 - replaces C18(if at Directors Report  
or Partial Decree stage)T20 - use only on unchg'd rts  
not subject to SRBA**OTHER CONDITIONS/REMARKS:**Initial Allocation Review by J.F.SRBA Review Completed by NARegional Manager Review by [Signature]Date 4/9/03Date 5/27/03Date 5/27/03**Comments:**70507

SOUTH IDAHO PRESS  
BURLEY, IDAHO  
AFFIDAVIT OF PUBLICATION

RECEIVED

MAY 12 2003

Department of Water Resources  
Southern Region

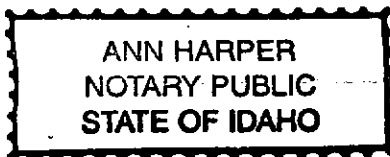
County of Cassia       )  
                                  ) ss  
STATE OF IDAHO       )

Ruth Anne Holmes, being first duly sworn, deposes and says that she is the Legal clerk of the South Idaho Press, a daily newspaper published at Burley, Idaho, in the county aforesaid and that the paper is of general circulation therein. Deponent further states that the printed notice attached hereto was duly published according to law in the regular editions of the South Idaho Press for 2 consecutive week(s), commencing with the issue dated May 1, 2003 and ending with the issue dated May 8, 2003.

*Ruth Anne Holmes*

STATE OF IDAHO       )  
COUNTY OF            )  
Cassia                   )

On this 8th day of May in the year of 2003 before me, a Notary Public, personally appeared Ruth Anne Holmes, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.



*Ann Harper*  
Notary Public for Idaho  
Residing at: Burley, Idaho  
My commission expires: 9-14-2007

Cost of Publication 55.77  
Affidavit Fee 5.00  
Total Cost 60.77

OK  
mb  
5/15/03

03-173  
NOTICE OF PROPOSED CHANGE  
TO WATER RIGHTS

Notice is hereby given that an Application for Transfer has been filed with the Idaho Department of Water Resources for changes to a water right within Cassia County: US DEPT OF INTERIOR, BUREAU OF LAND MANAGEMENT, 1387 S VINNELL WY; BOISE ID 83709-1657 filed Application No. 70507 on 2/7/03 for diversion of 0.02 cfs from ground water for stockwater uses. Application proposes to change point of diversion to an existing well (known locally as Yates well) located 4 miles south and 4 miles east of Malta, Idaho. Original point of diversion was located 6 miles south and 6 miles east of Malta, Idaho. The place of use is not changing and is located between 3 miles south and 5 miles east of Malta, Idaho and 7 miles south and 5 miles east of Malta, Idaho. For specific details regarding the application(s), please contact IDWR Southern Regional Office at 208-736-3033 or visit [www.idwr.state.id.us](http://www.idwr.state.id.us) with detail provided under "New Water Right Applications". Protests may be submitted based on the criteria of Sec 42-222, Idaho Code. Protests against approval must be filed with IDWR, Southern Region, 1341 Fillmore St., Suite 200; Twin Falls, ID 83301 with a protest fee of \$25.00 for each application on or before May 19, 2003. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director  
Published in the South Idaho Press on  
May 1 and 8, 2003.

MICROFILMED

OCT 29 2003

## NOTICE OF PROPOSED CHANGE TO WATER RIGHTS

Notice is hereby given that an Application for Transfer has been filed with the Idaho Department of Water Resources for changes to a water right within Cassia County:

US DEPT OF INTERIOR, BUREAU OF LAND MANAGEMENT, 1387 S VINNELL WY; BOISE ID 83709-1657 filed Application No. 70507 on 2/7/03 for diversion of 0.02 cfs from ground water for stockwater uses. Application proposes to change point of diversion to an existing well (known locally as Yates well) located 4 miles south and 4 miles east of Malta, Idaho. Original point of diversion was located 6 miles south and 6 miles east of Malta, Idaho. The place of use is not changing and is located between 3 miles south and 5 miles east of Malta, Idaho and 7 miles south and 5 miles east of Malta, Idaho.

For specific details regarding the application(s), please contact IDWR Southern Regional Office at 208-736-3033 or visit [www.idwr.state.id.us](http://www.idwr.state.id.us) with detail provided under "New Water Right Applications". Protests may be submitted based on the criteria of Sec 42-222, Idaho Code. Protests against approval must be filed with IDWR, Southern Region, 1341 Fillmore St.-Suite 200; Twin Falls, ID 83301 with a protest fee of \$25.00 for each application on or before May 19, 2003. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

Published in the South Idaho Press on 5/1 & 5/8/03.

MICROFILMED

OCT 29 2003

IDAHO DEPARTMENT OF WATER RESOURCES  
1341 FILLMORE STREET-STE# 200  
TWIN FALLS ID 83301

Phone: 736-3033

Fax: 736-3037

April 24, 2003

**ATTN KAY MOORE**  
SOUTH IDAHO PRESS  
230 E MAIN ST  
BURLEY ID 83318

**Dear Ms. Moore:**

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues).

If you cannot publish the notice on the proposed dates, please contact us immediately at 736-3033.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Sincerely



Mary A. Baldwin  
Administrative Assistant

MICROFILMED

OCT 29 2003



State of Idaho

## DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

April 23, 2003

US DEPT OF INTERIOR  
BUREAU OF LAND MANAGEMENT  
1387 S VINNELL WY  
BOISE ID 83709-1657

RE: Application for **Transfer No. 70507**

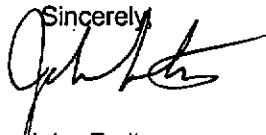
Dear Applicants:

The Department of Water Resources acknowledges receipt of your application. Please refer to the number in all correspondence regarding the above referenced application.

This office has scheduled advertising the application in the **South Idaho Press** on 5/1 & 5/8/03. The advertisement will be published for two weeks, and a period of ten calendar days following the second publication will be allowed for the submittal of protests. **(May 19, 2003)**

State Office personnel will conduct a complete review prior to final processing of the application and will notify the applicant regarding the outcome of this review.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,  


John Freitag  
Sr. Water Resource Agent

cc:  
ATTN STEVE DAVIS  
USDI - BUR OF LAND MGT  
15 E 200 S  
BURLEY ID 83318

MICROFILMED

OCT 29 2003



United States Department of the Interior  
BUREAU OF LAND MANAGEMENT

Burley Field Office

15 East 200 South

Burley, Idaho 83318-9501

OFFICE: (208) 677-6641

FAX: (208) 677-6699

T70507

---

COVER SHEET

DATE: 2-7-03

NO. OF PAGES (INCLUDING COVER PAGE: 2

TO: John

FAX NUMBER: 208-736-3037

FROM: Steve Davis

PHONE NO. (208) 677-6626

MICROFILMED

OCT 24 2003