

HOFSTETTER LAW OFFICE, LLC

608 West Franklin Street

Boise, Idaho 83702

Phone: (208) 424-7800

Fax: (208) 424-8774

E-Mail: Dana@IdahoWaterLaw.com**FAX COVER SHEET****DATE:** November 11, 2004

TO:	Jan Shurte	FAX:	334-2348
	Susan Hamlin		287-6700
	Chris Bromley		287-6700
	Island Capitol, LLC		288-0216
	Joe Eld		208-325-8876
	Lyle Points		208-734-8610 and
			208-325-8783

FROM: Dana L. Hofstetter**RE:** Roseberry Irrigation District – Digital Boundaries

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ORIGINAL BY MAIL: YES ☐ NO ☒

HOFSTETTER LAW OFFICE

608 West Franklin Street
Boise, Idaho 83702

Dana@IdahoWaterLaw.com

Dana L. Hofstetter
Attorney at Law

Telephone: (208) 424-7800
Facsimile: (208) 424-8774

November 11, 2004

Via Facsimile

Jan Shurte
Western Region
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082

Re: Roseberry Irrigation District – Digital Boundaries

Dear Jan:

I recently received copies of the November 2, 2004 *Orders of Partial Decree for Irrigation Delivery Entity Using Digital Boundary Description* for the Roseberry Irrigation District's Water Right Nos. 65-02585, 65-03114, 65-03115, and 65-03116, as well as for 65-22587. Copies of these documents are enclosed for your reference.

Upon reviewing the maps attached to these *Orders* and comparing them to the finalized Roseberry Irrigation District boundary map dated August 12, 2002, it appears that the boundary maps referenced in the enclosed Snake River Basin Adjudication ("SRBA") Court's *Partial Decrees* are an earlier incorrect version of the map dated November 9, 1999, rather than the corrected and finalized map dated August 12, 2002. I have correspondence in my file concerning the requested corrections to this map on behalf of my client, Island Capitol, LLC, as well as a full-size print of the corrected and finalized map as of August 12, 2002 provided to me by the Idaho Department of Water Resources ("IDWR"). I can provide you copies of any of these documents upon request.

Jan Shurte
November 11, 2004
Page 2

Please contact me immediately to discuss this matter. I may need to file a Motion with the SRBA Court immediately to have this matter corrected. Thank you for your attention to this matter.

Sincerely,

HOFSTETTER LAW OFFICE, LLC

A handwritten signature in black ink, appearing to read "Dana Hofstetter", with a long horizontal flourish extending to the right.

Dana L. Hofstetter

Enclosures

cc: Susan Hamlin, IDWR
Chris Bromley, IDWR
Island Capitol, LLC
Joe Eld, Roseberry Irrigation District
Lyle Points, Roseberry Irrigation District

DLH:drj
4004.1/6215

7004 NOV -2 PM 3: 17

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

Case No. 39576

) ORDER OF PARTIAL DECREE FOR
) IRRIGATION DELIVERY ENTITY
) USING DIGITAL BOUNDARY
) DESCRIPTION; I.C. §§ 42-202B(2), 42-
) 219(2), 42-1411(2)(h)
)
) For Water Right(s): 65-02585, 65-03114,
) 65-03115 and 65-03116
) (Roseberry Irrigation District)
)

I.
FINDINGS AND CONCLUSIONS

1. On June 17, 2004, an *Amended Special Master's Report and Recommendation* was filed for the above water right(s). No Challenges were filed to the *Amended Special Master's Report and Recommendation* and the time for filing Challenges has now expired.
2. The above-captioned water right(s) is/are for an irrigation purpose of use and satisfy one of the following statutory criteria: (1) used in conjunction with an irrigation project where the canals constructed cover an area of twenty-five thousand (25,000) acres or more; (2) the place of use for the water rights is located within an irrigation district organized pursuant to the laws of the state of Idaho; or (3) the water rights are for an irrigation project developed by an association, company, corporation or the United States to divert and deliver or distribute surface water under any annual charge or rental for beneficial use by more than five (5) water users in an area less than twenty-five thousand (25,000) acres.
3. Effective July 1, 2002, the Idaho Legislature approved the use of a Geographic Information System (GIS) for describing the place of use (digital boundary) for water rights meeting the above-stated criteria. See I.C. §§ 42-219(2)(2003) and 42-1411(2)(h)(2003). The

RECEIVED NOV 03 2004

GIS mapping technology allows the geographic area encompassing the place of use for a water right to be particularly identified and visually displayed in a map overlay format through the aid of computer technology. In incorporating a digital boundary into a partial decree, the electronic or digital data is what is actually decreed as opposed to the visually displayed map ultimately generated from the data. The data is stored on a CD-ROM. The Court finds that the GIS mapping technology maintained by IDWR complies with the standards for spatial accuracy set forth in I.C. § 42-202B (2)(2003). *See Notice of Filing Affidavit Of Michael Ciscell Re: Digital Boundary, filed October 17, 2003.*

**II.
ORDER**

1. Therefore, IT IS ORDERED that water right(s) 29-00071 & 2902558 is/are hereby **decreed** as set forth in the attached ***Partial Decree Pursuant to I.R.C.P. 54(b)***.
2. IT IS FURTHER HEREBY ORDERED that the data comprising the digital boundary shall be stored on a CD-ROM medium, which shall be issued in duplicate original. The SRBA District Court will retain one original together with the original ***Partial Decree***, and IDWR will retain the other original. The map depicting the place of use attached to the ***Partial Decree*** is intended for illustrative purposes only.
3. IT IS FURTHER HEREBY ORDERED that upon request, the claimant can obtain a copy of the CD-ROM from IDWR at no cost, although GIS software will still be required to access the data. Subsequent administrative changes to the place of use shall also be stored in a digital format and kept on file and maintained by IDWR. IDWR shall maintain all computer software and/or hardware necessary for reducing the data to a usable format that is accessible to the general public, including access through the IDWR Internet website (www.idwr.state.id.us) or its successor Uniform Resource Locator (URL).

DATED November 2, 2004.


JOHN M. MELANSON
Presiding Judge
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

In Re SRBA
Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 65-02585

2004 NOV -2 PM 3:26

DISTRICT COURT-SRBA
TWIN FALLS CO, IDAHO
FILED

NAME AND ADDRESS:

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

ROSEBERRY IRRIGATION DISTRICT
P O BOX 366
DONNELLY, ID 83615

SOURCE:

WILLOW CREEK TRIBUTARY: NORTH FORK PAYETTE RIVER

QUANTITY:

5.00 CFS

PRIORITY DATE:

05/30/1964

POINT OF DIVERSION:

T16N R03E S11 SWSSE Within Valley County

PURPOSE AND

PERIOD OF USE:

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

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) (2003) and authorized pursuant to I.C. Section 42-1411
(2)(h)(2003). 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.

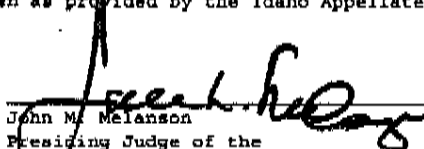
THIS WATER RIGHT SHALL BE ADMINISTERED AS BEING FROM A
SEPARATE SOURCE PURSUANT TO BASIN 65 GENERAL PROVISION NO. 3.
IF THE HOLDER OF THIS RIGHT SEEKS TO CHANGE THE RIGHT PURSUANT
TO IDAHO CODE SECTION 42-222 OR SUCCESSOR STATUTE, NOTHING IN
THIS GENERAL PROVISION SHALL PRECLUDE ANY OTHER PERSON OR ENTITY
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
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).

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

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

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

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 65-03114

2004 NOV -2 PM 3:26
DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED *MM*

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

ROSEBERRY IRRIGATION DISTRICT
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 SENWSE Within valley County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	04-15 TO 10-15	50.00 CFS

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.: 65-03115, 65-03116,
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) (2003) and authorized pursuant to I.C. Section 42-1411
(2)(h) (2003). 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.

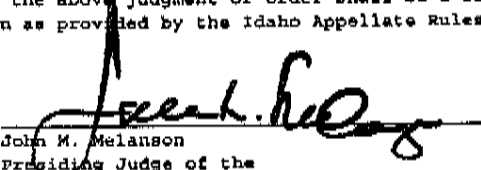
THIS WATER RIGHT SHALL BE ADMINISTERED AS BEING FROM A
SEPARATE SOURCE PURSUANT TO BASIN 65 GENERAL PROVISION NO. 3.
IF THE HOLDER OF THIS RIGHT SEEKS TO CHANGE THE RIGHT PURSUANT
TO IDAHO CODE SECTION 42-222 OR SUCCESSOR STATUTE, NOTHING IN
THIS GENERAL PROVISION SHALL PRECLUDE ANY OTHER PERSON OR ENTITY
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
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).

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

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

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

2004 NOV -2 PM 3:26
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

ROSEBERRY IRRIGATION DISTRICT
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 SENWSE (Rediversion) Within Valley County
T18N R04E S27 NESE

PURPOSE AND 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

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) (2003) and authorized pursuant to I.C. Section 42-1411
(2) (h) (2003). 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
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY

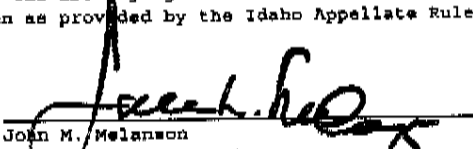
SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

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).

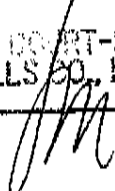
RULE 54(b) CERTIFICATE

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.


Joan 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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 65-03116

2004 NOV -2 PM 3:26
DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED 

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

ROSEBERRY IRRIGATION DISTRICT
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 SENWSE Within Valley County

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

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) (2003) and authorized pursuant to I.C. Section 42-1411 (2)(b) (2003). 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.

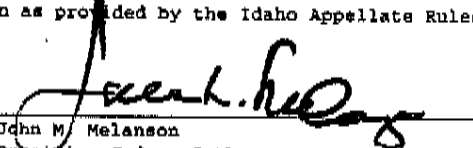
THIS WATER RIGHT SHALL BE ADMINISTERED AS BEING FROM A SEPARATE SOURCE PURSUANT TO BASIN 65 GENERAL PROVISION NO. 3. IF THE HOLDER OF THIS RIGHT SEEKS TO CHANGE THE RIGHT PURSUANT TO IDAHO CODE SECTION 42-222 OR SUCCESSOR STATUTE, NOTHING IN THIS GENERAL PROVISION SHALL PRECLUDE ANY OTHER PERSON OR ENTITY 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 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).

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

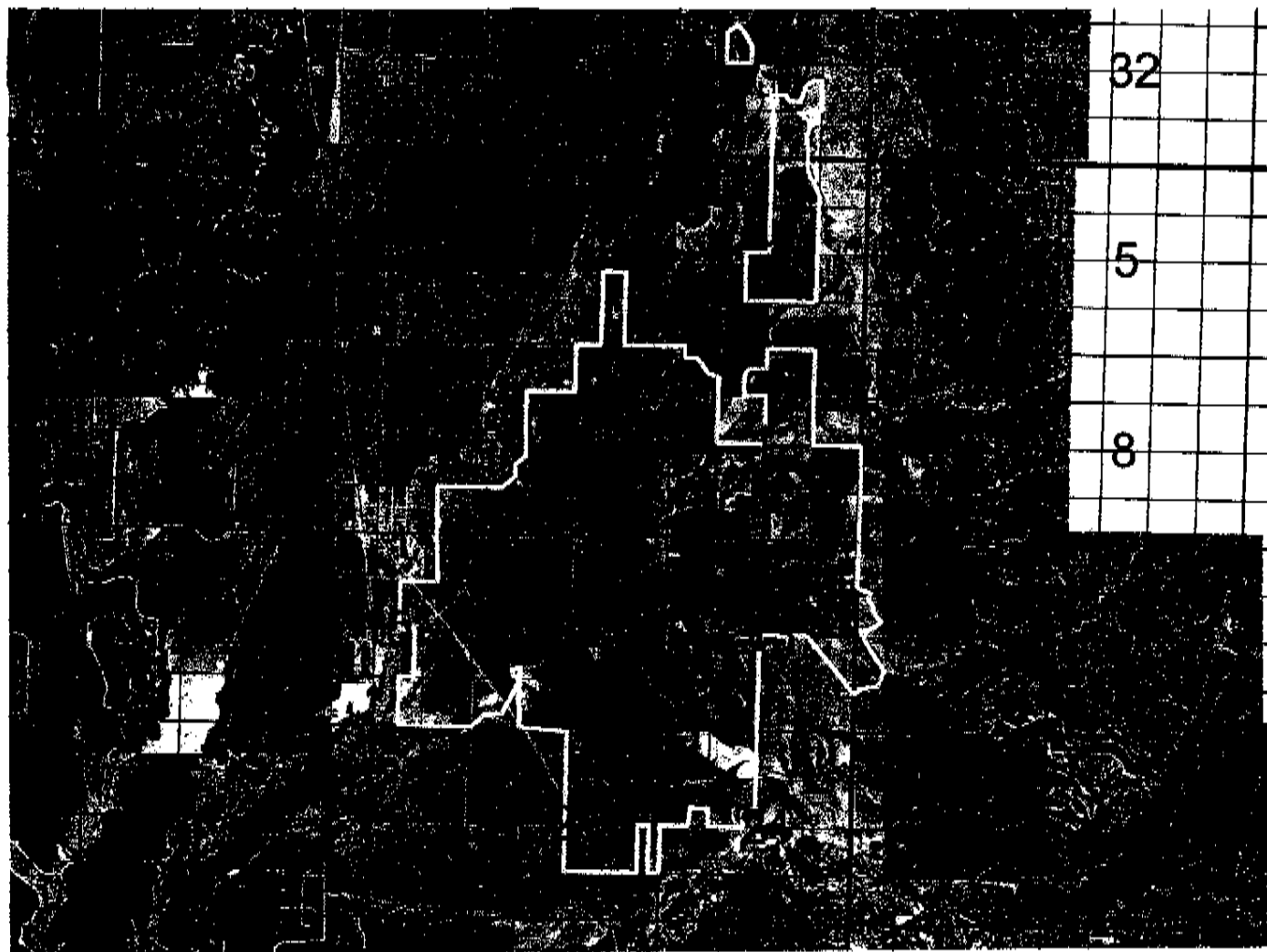
RULE 54(b) CERTIFICATE

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

Roseberry Irrigation District

65-2585 65-22587 65-03114
65-03115 65-03116



1 0 1 2 Miles

- Roseberry Irr Dist Boundary**
-  **Township/Range**
 -  **Sections**
 -  **Quarter Quarters**



CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF PARTIAL DECREE FOR IRRIGATION DELIVERY ENTITY USING DIGITAL BOUNDARY DESCRIPTION was mailed on November 02, 2004, with sufficient first-class postage to the following:

BLACK CANYON IRRIGATION DISTRICT

Represented by:
CHARLES F MC DEVITT
537 W BANNOCK STE 215
PO BOX 2564
BOISE, ID 83701
Phone: 208-343-7500

EASTERN WESTERN CORPORATION
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 DISTRICT
C/O JOE ELD
2554 E ROSEBERRY
MC CALL, ID 83638

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

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

ORDER

Page 1 11/02/04

FILE COPY FOR 00017

Deputy Clerk



2004 NOV -2 PM 3:15
 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

Case No. 39576

) **ORDER OF PARTIAL DECREE FOR**
) **IRRIGATION DELIVERY ENTITY**
) **USING DIGITAL BOUNDARY**
) **DESCRIPTION; I.C. §§ 42-202B(2), 42-**
) **219(2), 42-1411(2)(h)**
)
) **For Water Right(s): 65-22587**
) **(Roseberry Irrigation District)**
)
)

**I.
 FINDINGS AND CONCLUSIONS**

1. On August 19, 2004, a *Third Amended Special Master's Report and Recommendation* was filed for the above water right(s). No Challenges were filed to the *Third Amended Special Master's Report and Recommendation* and the time for filing Challenges has now expired.
2. The above-captioned water right(s) is/are for an irrigation purpose of use and satisfy one of the following statutory criteria: (1) used in conjunction with an irrigation project where the canals constructed cover an area of twenty-five thousand (25,000) acres or more; (2) the place of use for the water rights is located within an irrigation district organized pursuant to the laws of the state of Idaho; or (3) the water rights are for an irrigation project developed by an association, company, corporation or the United States to divert and deliver or distribute surface water under any annual charge or rental for beneficial use by more than five (5) water users in an area less than twenty-five thousand (25,000) acres.
3. Effective July 1, 2002, the Idaho Legislature approved the use of a Geographic Information System (GIS) for describing the place of use (digital boundary) for water rights meeting the above-stated criteria. See I.C. §§ 42-219(2)(2003) and 42-1411(2)(h)(2003). The

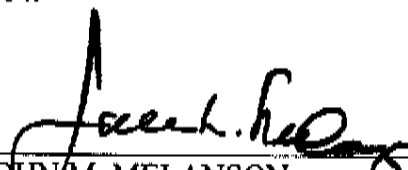
RECEIVED NOV 03 2004

GIS mapping technology allows the geographic area encompassing the place of use for a water right to be particularly identified and visually displayed in a map overlay format through the aid of computer technology. In incorporating a digital boundary into a partial decree, the electronic or digital data is what is actually decreed as opposed to the visually displayed map ultimately generated from the data. The data is stored on a CD-ROM. The Court finds that the GIS mapping technology maintained by IDWR complies with the standards for spatial accuracy set forth in I.C. § 42-202B (2)(2003). *See Notice of Filing Affidavit Of Michael Ciscell Re: Digital Boundary, filed October 17, 2003.*

**II.
ORDER**

1. Therefore, IT IS ORDERED that water right(s) 29-00071 & 2902558 is/are hereby **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.
2. IT IS FURTHER HEREBY ORDERED that the data comprising the digital boundary shall be stored on a CD-ROM medium, which shall be issued in duplicate original. The SRBA District Court will retain one original together with the original *Partial Decree*, and IDWR will retain the other original. The map depicting the place of use attached to the *Partial Decree* is intended for illustrative purposes only.
3. IT IS FURTHER HEREBY ORDERED that upon request, the claimant can obtain a copy of the CD-ROM from IDWR at no cost, although GIS software will still be required to access the data. Subsequent administrative changes to the place of use shall also be stored in a digital format and kept on file and maintained by IDWR. IDWR shall maintain all computer software and/or hardware necessary for reducing the data to a usable format that is accessible to the general public, including access through the IDWR Internet website (www.idwr.state.id.us) or its successor Uniform Resource Locator (URL).

DATED November 2, 2004.


JOHN M. MELANSON
Presiding Judge
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

In Re SRBA

Case No. 19576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 65-22587

2004 NOV -2 PM 3:22

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED *[Signature]*

NAME AND ADDRESS:

ROSEBERRY IRRIGATION DISTRICT
C/O JOE ELD
2554 E ROSEBERRY
MC CALL, ID 83638ROSEBERRY IRRIGATION DISTRICT
PO BOX 366
DONNELLY, ID 83615

SOURCE:

BOULDER LAKE TRIBUTARY: BOULDER CREEK

QUANTITY:

134.00 APY

PRIORITY DATE:

01/12/1917

POINT OF DIVERSION:

T17N R03E S13
T18N R04E S27NWSE (Rediversion)
NESE

Within Valley County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Stockwater Storage	01-01 TO 12-31	134.00 APY
Stockwater from Storage	01-01 TO 12-31	134.00 APY

PLACE OF USE:

WITHIN THE BOUNDARIES OF THE ROSEBERRY IRRIGATION DISTRICT
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) (2003) AND AUTHORIZED PURSUANT TO I.C.
SECTION 42-1411(2) (H) (2003). 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:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

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.

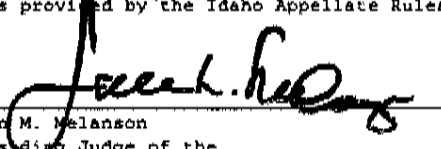
Stockwater use is for 10,000 range cattle.

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).

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

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

Roseberry Irrigation District

65-2585 65-22587 65-03114
65-03115 65-03116



1 0 1 2 Miles

- Roseberry Irr Dist Boundary
-  Township/Range
 -  Sections
 -  Quarter Quarters



CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF PARTIAL DECREE FOR IRRIGATION DELIVERY ENTITY USING DIGITAL BOUNDARY DESCRIPTION was mailed on November 02, 2004, with sufficient first-class postage to the following:

ISLAND CAPITOL LLC
ROSEBERRY IRRIGATION DIST
ROSEBERRY IRRIGATION DISTRICT

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

UNITED STATES OF AMERICA
Represented by:
DAVID W GEHLERT
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

ROSEBERRY IRRIGATION DISTRICT
C/O JOE ELD
2554 E ROSEBERRY
MC CALL, ID 83638
Phone: 208-325-8876

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

ORDER

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FILE COPY FOR 00796

Deputy Clerk

A handwritten signature in cursive script, reading "Julie Murphy", is written over a horizontal line. The signature is in dark ink and is positioned to the right of the typed name "Deputy Clerk".