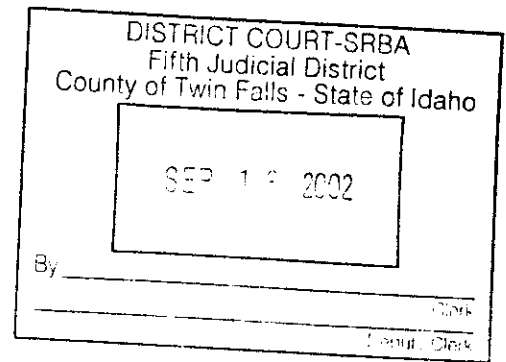


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SEP 17 2002
Department of Water Resources



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 Water Right 43-04090**
)

On July 29, 2002, 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 43-04090 is hereby **decreed** as set forth in the attached *Partial Decree* Pursuant to I.R.C.P. 54(b).

DATED September 16, 2002

Handwritten signature of Roger S. Burdick in black ink.

ROGER S. BURDICK
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

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 43-04090

SEP 16 2002

By _____ Clerk

Deputy Clerk

NAME AND ADDRESS: SPENCER BROTHERS
HC 72 BOX 2418
MALTA, ID 83342

SOURCE: GROUND WATER

QUANTITY: 2.28 CFS
456.00 AFY

THIS RIGHT WHEN COMBINED WITH RIGHT NOS. 43-47A, 43-327,
43-2556, 43-4089, 43-4150 AND 43-7130 SHALL PROVIDE NO MORE THAN
.02 CFS PER ACRE.

USE OF THIS RIGHT WITH RIGHT NO. 43-2556 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 3.59 CFS.

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 6.36 CFS AND TO A TOTAL
COMBINED ANNUAL DIVERSION VOLUME OF 1272 AF. COMBINED RIGHT
NOS.: 43-2556, 43-4089, 43-7130.

PRIORITY DATE: 04/01/1958

POINT OF DIVERSION: T16S R24E S12 NENENE Within Cassia County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	2.28 CFS 456.00 AFY

PLACE OF USE:	Irrigation	Within Cassia County
	T16S R24E S12	NENE 18.0 SENE 40.0
	R25E S06 LOT 4	(SWSW) 1.2 LOT 3 (SESW) 29.0
	LOT 2	(SWSE) 29.0 LOT 1 (SESE) 13.0
	S07	NWNE 40.0 NENW 40.0
	LOT 1	(NWNW) 38.0 LOT 2 (SWNW) 38.0
	318.2 Acres Total	

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 114 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

USE OF THIS RIGHT WITH RIGHT NO. 43-2556 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 185 ACRES IN A SINGLE
IRRIGATION SEASON.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 318.2 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 43-47A, 43-327, 43-2556,
43-4089, 43-4150, 43-7130.

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

THIS RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF
WATER DISTRICT 43B.

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.



Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

2002 SEP 16 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): 43-04090

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 43-04090 was mailed
on September 16, 2002, with sufficient first-class postage prepaid
to the following:

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

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

SPENCER BROTHERS
HC 72 BOX 2418
MALTA, ID 83342
Phone: 435-827-5573

ROBBIN GLATZ
Chief Deputy Clerk

CERTIFICATE OF MAILING

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09/16/02