

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A63-20931
Date Received: 2/13/1990
Receipt No: M005869
Received By: JP

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: HOWARD EASTER 208-466-8430
Address: 4309 HAPPY VALLEY RD.
NAMPA, ID 83686

AND/OR

Name: SHIRLEY EASTER 208-466-8430
Address: 4309 HAPPY VALLEY RD.
NAMPA, ID 83686

2. Date of Priority: MAR 15, 1950

3. Source: UNNAMED DRAIN Trib. to: INDIAN CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
02N	02W	12	NE	SE	NE		CANYON
			NW	SE	NE		CANYON
			SW	SE	NE		CANYON

5. Description of diverting works:
PORTABLE PUMP

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.600		

7. Total Quantity Appropriated is:
0.600 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 105.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

A63-20931

Page 1

Date: 02/13/90

MICROFILMED

SEP 03 1992

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
02N	02W	12	SE NE		IRR	30.0
Section Acres						30.0
Total Acres						30.0

11. Place of use in counties: CANYON

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
NAMPA-MERIDIAN IRRIG. DIST.

14. Remarks:

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do do not / wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Howard J. Easter Jr. Date: 2-13-90
Date:

State of Idaho)
County of CANYON) SS.

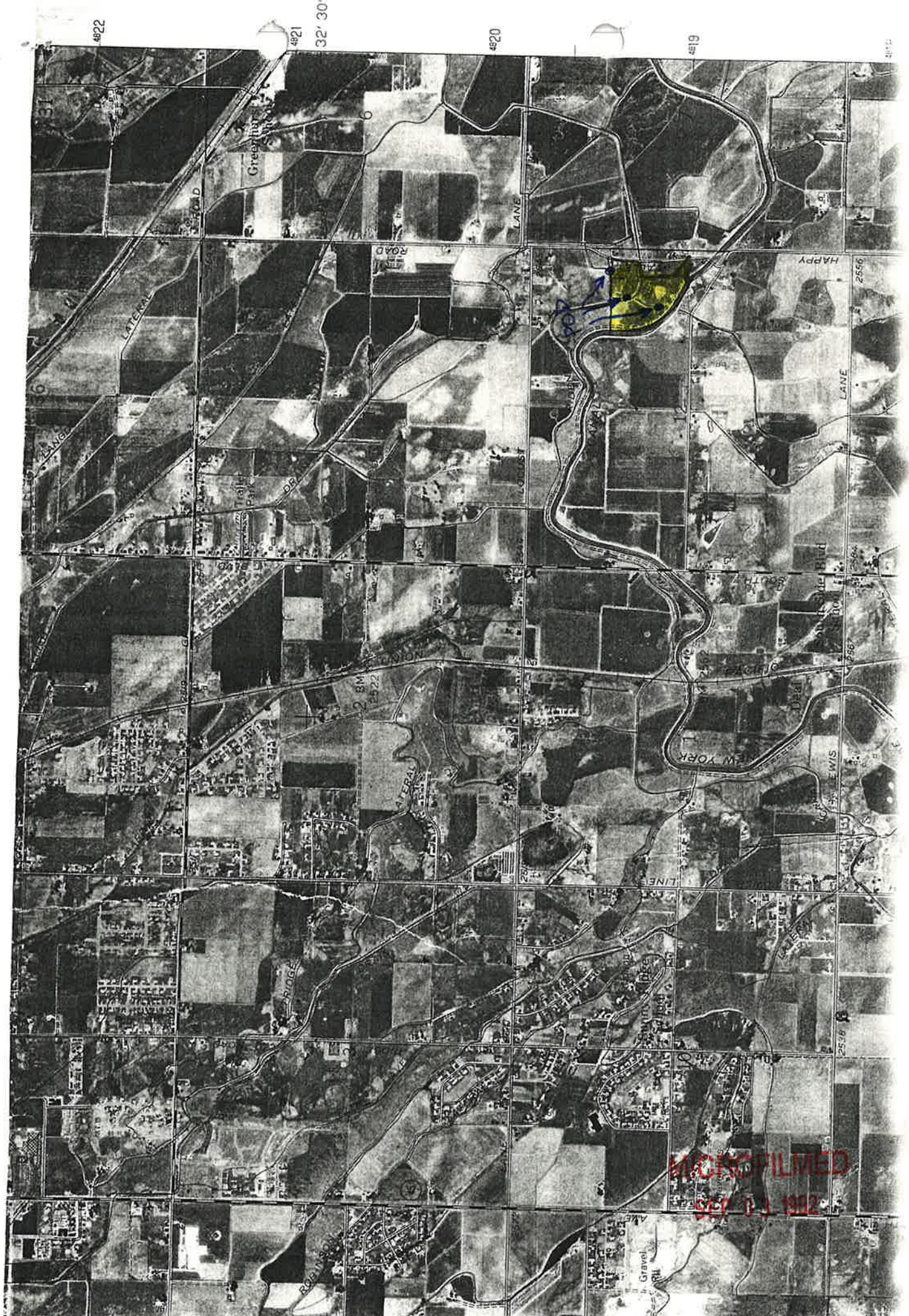
Subscribed and sworn (or affirmed) before me this 13 day
of FEBRUARY 19 90

Jeff Peppersack
Notary Public

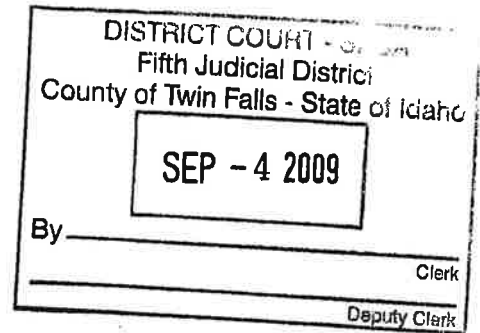
Seal

Residing at
My Commission Expires

Jeff Peppersack, Notary Public
Residing at Boise, Idaho
My Commission Expires Nov. 8, 1994



MICROFILMED
SEP 13 1982



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

) Subcase 63-20931

)

) SPECIAL MASTER'S REPORT AND
) RECOMMENDATION RE: MOTION
) TO SET ASIDE FINAL ORDER
) DISALLOWING WATER RIGHT
CLAIM

I. FINDINGS OF FACT

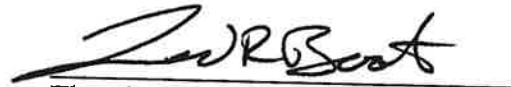
A *Final Order Disallowing Water Right Claims* was issued for water right 63-20931 on March 19, 2009. On March 25, 2009, the claimants of the right, Howard and Shirley Easter, filed correspondence with the Court seeking to have the disallowance of their water right claim set aside. Hearings on the Easter's motion were held on June 2, 2009, and again on July 28, 2009. Based upon the comments of the participants at the hearing this Special Master finds that the claimants have satisfied the criteria set forth in I.R.C.P. 60(b), for the reasons of mistake and excusable neglect and that the SRBA District Court should set aside the previously issued *Partial Decree* and issue an amended partial decree as recommended herein. In anticipation of the issuance of an amended partial decree, an *Amended Director's Report* was filed by IDWR on July 30, 2009. Notice of the issuance of the *Amended Director's Report* was published on the Court's docket sheet in August, 2009, with an objection period ending August 28, 2009. No objections were filed to the *Amended Director's Report*, and the time for objecting has expired.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that the SRBA District Court set aside the previously issued *Final Order Disallowing Water Right Claims* as to

this water right claim, and issue a partial decree for water right 63-20931 with the elements as set forth in the attached ***Recommendations for Partial Decree Pursuant to I.R.C.P. 54(b)***.

Dated Sept. 4, 2009



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

In Re SRBA

Case No. 39576

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

Water Right 63-20931

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

SEP - 4 2009

By

Clerk

Deputy Clerk

NAME AND ADDRESS:

HOWARD EASTER
SHIRLEY EASTER
4309 HAPPY VALLEY RD
NAMPA, ID 83686

SOURCE:

UNNAMED DRAIN TRIBUTARY: INDIAN CREEK

QUANTITY:

0.04 CFS

PRIORITY DATE:

03/15/1967

POINT OF DIVERSION:

T02N R02W S12 SENE Within Canyon County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE
Irrigation

PERIOD OF USE
03-15 TO 11-15

QUANTITY
0.04 CFS

PLACE OF USE:

Irrigation
T02N R02W S12 SENE 2.0 Within Canyon County
2.0 Acres Total

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

The source of this water right includes waste water. The right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

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

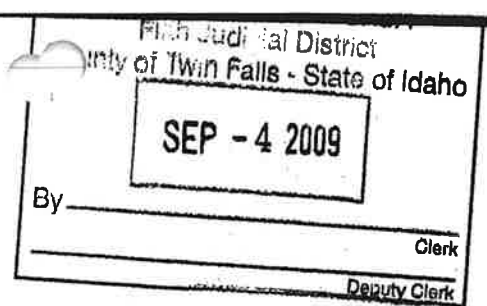
With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment 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

RECOMMENDATION

SEP - 4 2009

John B. Booth
SPECIAL MASTER



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

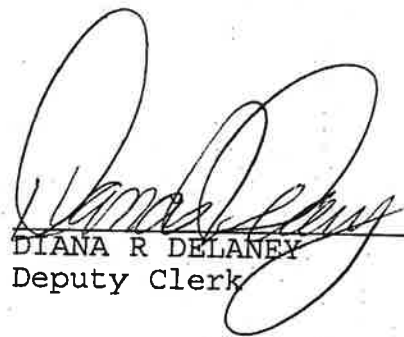
Water Right(s): 63-20931

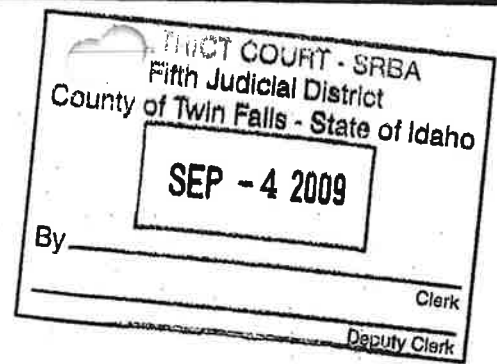
On September 04, 2009, Special Master THEODORE R. BOOTH issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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 September 04, 2009.


DIANA R DELANEY
Deputy Clerk



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

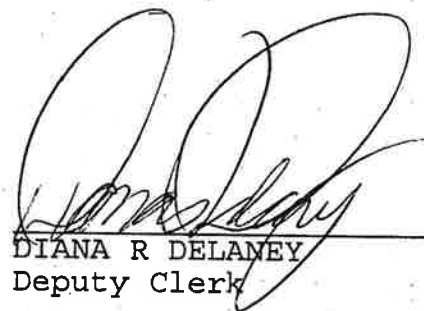
Water Right(s): 63-20931

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 September 04, 2009, with sufficient first-class postage prepaid to the following:

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

HOWARD EASTER
SHIRLEY EASTER
4309 HAPPY VALLEY RD
NAMPA, ID 83686
Phone: 208-466-8430


DIANA R DELANEY
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
09/04/09

Amended Director's Report
Right No. 63-20931

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-20931

NAME AND ADDRESS: HOWARD EASTER
4309 HAPPY VALLEY RD
NAMPA ID 83686

SHIRLEY EASTER
4309 HAPPY VALLEY RD
NAMPA ID 83686

SOURCE: UNNAMED DRAIN

TRIBUTARY: INDIAN CREEK

QUANTITY: 0.040 CFS

PRIORITY DATE: 03/15/1967

POINT OF DIVERSION:

T02N R02W S12 SENE Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.040 CFS

PLACE OF USE: IRRIGATION in CANYON County

T02N R02W S12 SENE 2.00

2 ACRES TOTAL

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

The source of this water right includes waste water. The right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-20931 V2

WATER RIGHT NUMBER: 63-20931 V2

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	HOWARD EASTER 4309 HAPPY VALLEY RD NAMPA, ID 83686 (208)466-3014
Current Owner	SHIRLEY EASTER 4309 HAPPY VALLEY RD NAMPA, ID 83686 (208)466-3014

Priority Date: 03/15/1967
Basis: Beneficial Use
Status: Active

<u>Source</u>	<u>Tributary</u>
UNNAMED DRAIN	INDIAN CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	0.040 CFS	
	<u>Total Diversion:</u>	0.040 CFS	

<u>Location of Point(s) of Diversion</u>		
UNNAMED DRAIN	SE1/4NE1/4	Sec. 12, Twp 02N, Rge 02W, B.M.
CANYON County		

Place of Use
IRRIGATION Within CANYON County
T02N R02W S12 SENE 2.0
Total Acres: 2

Conditions of Approval:

1. The source of this water right includes waste water. The right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.
2. C18 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. Section 42-1412(6), Idaho Code.

Remarks:

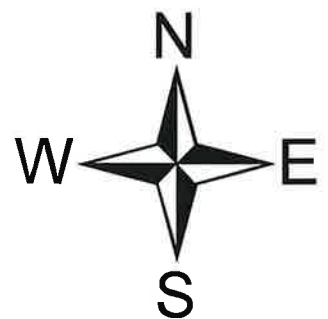
IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-20931 V2

Comments:

1. jshurte 7/24/2009 Recommendation

Comment: Note: No Nampa Meridian Irrigation District water can be used on this property due to inability to get to water. This had been disallowed, however, Mr. Easter filed a motion to rescind the partial decree which was approved by the court and he submitted several affidavits showing this water rights had been used back to 1967 and it also appeared to be irrigated in 1987. So, recommendation was changed. Mr. Easter had not submitted any information during our initial recommendation and it was disallowed due to no information rather than forfeiture. I put the wastewater condition on this right as it is an unnamed drain within the boundaries of Nampa Meridian and they have been objecting to these rights. It is state law that if wastewater is not available you can not put a call for it, so to avoid the objection for Mr. Easter I put the wastewater condition on this right. I did put the one which states that the source of water includes wastewater rather than the source of water is wastewater.

Water Supply Bank:



IDWR Adjudication Recommendation
63-20931 - Howard Easter
Twp. 2N, Rge. 2W, Sec. 12, SENE



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WARDEN

July 22, 2009

Special Master Theodore Booth
Snake River Basin Adjudication
253 3rd Ave. North
P.O. Box 2707
Twin Falls, ID 83303-2707

RE: SRBA Subcase No. 63-20931 (Easter)

Dear Special Master Booth:

In accordance with the discussions during the June 2, 2009, Status Conference, Jan Shurte met with the claimant on June 17, 2009. The claimant provided several affidavits in support of the priority date. As a result of that meeting, I am enclosing a proposed recommendation illustrating how the Department would recommend this water right if the Partial Decree is set aside.

If you should have any questions or comments, please don't hesitate to contact me at 287-4815.

Sincerely,

A handwritten signature in black ink, appearing to read "Ray Williams", is written over the typed name.

Ray Williams
Paralegal

Enclosure

cc: Howard & Shirley Easter
Jan Shurte

Amended Director's Report
Right No. 63-20931

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-20931

NAME AND ADDRESS: HOWARD EASTER
4309 HAPPY VALLEY RD
NAMPA ID 83686

SHIRLEY EASTER
4309 HAPPY VALLEY RD
NAMPA ID 83686

SOURCE: UNNAMED DRAIN TRIBUTARY: INDIAN CREEK

QUANTITY: 0.040 CFS

PRIORITY DATE: 03/15/1967

POINT OF DIVERSION:

T02N R02W S12 SENE Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.040 CFS

PLACE OF USE: IRRIGATION in CANYON County

T02N R02W S12 SENE 2.00

2 ACRES TOTAL

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

The source of this water right includes waste water. The right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Amended Director's Report
Right No. 63-20931

STATUS CONFERENCE NOTES:

RIGHT NO. 63-20931

DATE: 7-27-09

Motion to Rescind Partial Decree -

Motion granted.

Need to file the Amended Director's Report - Wait until 21 days for objection. File AOR by 7-31-09, Objection period 8-28-09 & if no objections filed then partial decree will be signed.

ADR

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-20931 V1

WATER RIGHT NUMBER: 63-20931 V1

Owner Type Name and Address

Current Owner HOWARD EASTER
4309 HAPPY VALLEY RD
NAMPA, ID 83686
(208) 466-8430 → 466-3014

Current Owner SHIRLEY EASTER
4309 HAPPY VALLEY RD
NAMPA, ID 83686
(208) 466-8430 → 466-3014

Priority Date: ~~03/15/1950~~ 3/15/1967

Basis: 04

Status: ~~Disallowed~~

Source

UNNAMED DRAIN

Tributary

INDIAN CREEK

Beneficial Use

IRRIGATION

From To

3/15 to 11/15

Diversion Rate

~~0.600~~ CFS .08

Annual Volume

Total Diversion:

~~0.600~~ CFS .08 .04

Location of Point(s) of Diversion

UNNAMED DRAIN ~~SW1/4SE1/4NE1/4~~ Sec. 12, Twp 02N, Rge 02W, B.M.
CANYON County

~~UNNAMED DRAIN~~ ~~NW1/4SE1/4NE1/4~~ ~~Sec. 12, Twp 02N, Rge 02W, B.M.~~
~~CANYON County~~

~~UNNAMED DRAIN~~ ~~NE1/4SE1/4NE1/4~~ ~~Sec. 12, Twp 02N, Rge 02W, B.M.~~
~~CANYON County~~

Place of Use

IRRIGATION

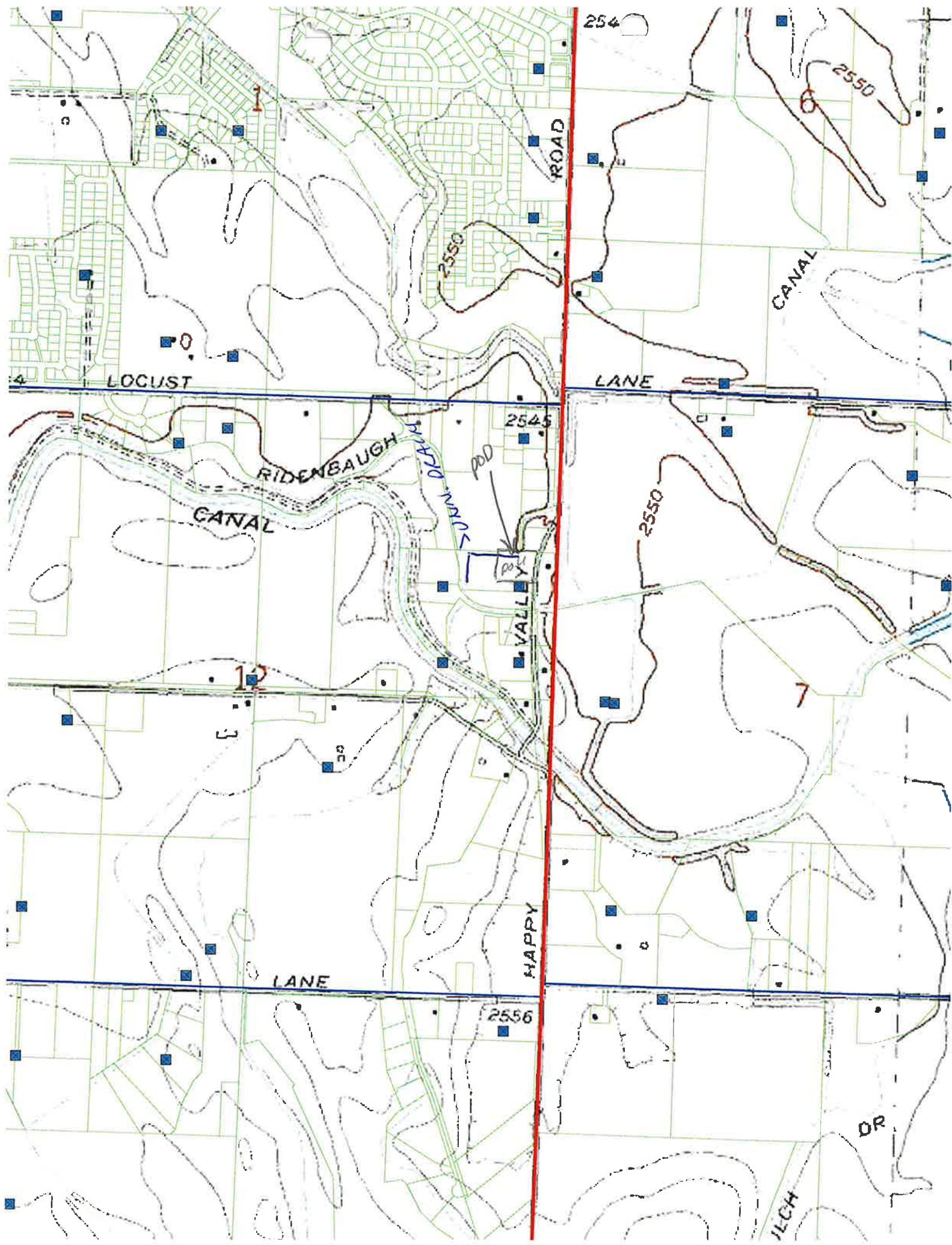
Twp	Rge	Sec	NE				NW				SW				SE				Totals
02N	02W	12	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	30.0
						2													30.0

Total Acres: 30

Conditions of Approval:

1. P13 No beneficial use found. This is included for a claim based on beneficial use that is proposed to be disallowed because beneficial use of water was not confirmed by IDWRs field examination or by other evidence submitted by the claimant.
2. P03 No beneficial use found.

WASTEWATER CONDITION
Janice remark.



10 8 1/2 IN

PROPERTY LINE

93 TREES
23 Roses

2-ACHERS
YARD + TREES

ENGLISH WALNUT - 2
PECAN - 3
HAZELNUT - 4
FIG - 1
PER - 1

3 HP
Pump
12 ft
PIPE

DRAIN

DRAIN

90 feet

YARD + TREES

SHED

DRIVE WAY

HOUSE

PROPERTY LINE

HAPPY VALLEY RD

Shurte, Jan

From: Shurte, Jan
Sent: Wednesday, July 15, 2009 2:55 PM
To: Williams, Ray
Subject: RE: 63-20931 (Easter)

Yes I do have enough info to make the recommendation. I have on my calendar that the ADR is due the same day as the status conference. I read through my notes from our meeting and it will be an easy one to do – Mr. Easter submitted all sorts of affidavits, so I will send you the ADR this week or the first of next week. I don't want to wait until the status conference. It is my understanding that when I submit the ADR, then Ted will make a recommendation to deny the motion for reconsideration? My notes seem to indicate that. Jan

From: Williams, Ray
Sent: Wednesday, July 15, 2009 8:08 AM
To: Shurte, Jan
Subject: 63-20931 (Easter)

Hi, Jan -

I think you met with the claimant a little while back. Was he able to provide anything useful towards being able to recommend the claim?

Thanks!

Ray

Shurte, Jan

From: Shurte, Jan
Sent: Tuesday, June 02, 2009 7:58 AM
To: Spencer, Nick
Cc: Williams, Ray
Subject: RE: 63-20931 (Howard and Shirley Easter)

Hi Nick & Ray,

Yesterday I checked this one out in between things. I had spoken to Mr. Easter when he received his disallowed partial decree. In looking at the map there is a drainage that does not appear to be connected to a canal, etc., it just goes in a half rectangle and begins and stops. However, it is likely drainage from the nearby Ridenbaugh Canal. So, he might get an objection, but it sounds like and looks like he can get a water right. He does pay to Nampa Meridian but no longer can get to the water. No address change so I'm not sure why he did not get his mail. We disallowed it for no evidence of priority. Sent him a letter, it was not returned and he did not call. His original filing was for 30 acres and all but his own place appears to have been subdivided and sold. They are served by Nampa Meridian Irrigation District and he likely kept one of the pods from this little drain that frames his property for the acreage around his house. His total ownership of the lot is 2 acres. No other filings have been made on the other pods for the other drains he claimed. That's what I remember and so I guess we go from there. I plan on being on the phone for this one since I spoke with Mr. Easter. Also on the Boise City Canal, however, the other one for Basin 63 is Kelly's.

Talk with you soon,
Jan

From: Spencer, Nick
Sent: Monday, June 01, 2009 5:07 PM
To: Shurte, Jan
Cc: Williams, Ray
Subject: 63-20931 (Howard and Shirley Easter)

Hi Jan. This claim was recommended for disallowance. Howard Easter has written the Court a letter asking that the disallowance be set aside. He says he waters his yard with it (about two acres) and always has. It sounds like it is waste water that he pumps out of a ditch. It also sounds like he pays an assessment for water from someplace else that apparently he no longer has physical access to. Do you have any background information on this claim and why we disallowed it? I note that in his letter he says he "been out of State quite a bit" and "I have never seen any papers asking us to refile on this ditch." This makes me wonder if he failed to file a change of address or something, and hasn't been getting notices from IDWR. Let me know what you think. Thanks. NBS

Bla3 - Drains - irrigation district may be object - May be able to add wastewater. remark. Talk to the Easter's concerning water right. on 6/12/09 - 1:30 PM

Rule 60B - Mistake, inadvertent surprise, excusable neglect.

#1 - See Jan Shurte & V will give Mr. Booth on APR 2/28/09 at 1:30

#2 - Ted will make a rec. to Melanson to deny

I Howard Easter started pumping water in 1969 from this unnamed drain ditch, after purchasing the land at 4309 Happy Valley Rd Nampa, Idaho, there has not been a year since 1969 that we have not pumped water from this drain ditch. This water comes from the farms being irrigated above us, it is drain water only

Howard Easter

Alvema^M Burchard pumped water from
this Drain Ditch in 1967, 1968, 1969 when we
rented the House at 4309 So Happy Valley Rd Nampa,
Idaho. My Brother owned the property at the time.

Alvema M. Burchard

June 10, 2009

I owned the land at what is now
4309 So. Happy Valley Rd Nampa Idaho
before 1969. I purchased the before mentioned
land in 1964. I pumped water from this Drain
Ditch that ran thru, and along side of this property
from 1964 to 1969 at which time I sold this
Property to Howard Easter

X Victor Aldrich

June 11, 2009

at the time my son purchased the land
at 4309 So Happy Valley Rd Nampa, Idaho, I had
seen him many times pump water from drain ditch
from 1969 to the present time. I also seen my brother
Victor Aldrich pump water from the's Drain Ditch
before my son purch'd the's property in 1969

Kevin Easter

RECEIVED

MAR 26 2009

DEPARTMENT OF
WATER RESOURCES

2009 MAR 25 AM 10:31
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	)	NOTICE SETTING STATUS
	)	CONFERENCE
Case No. 39576	)	
_____	)	SUBCASE NO: 63-20931

Please be advised that Special Master THEODORE R. BOOTH
has set a Status Conference in the above subcase(s)
as follows:

TUESDAY, JUNE 02, 2009 at 02:00 PM (MT)

SRBA
253 - 3RD AVENUE NORTH
TWIN FALLS, ID

Parties may participate by telephone by dialing the number
225-383-1099 and when prompted entering the code 675342.

Dated: MARCH 25, 2009

/S/ DIANA R DELANEY

Deputy Clerk

Snake River Basin Adjudication

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

Page 1 3/25/09

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the NOTICE SETTING STATUS CONFERENCE was mailed on MARCH 25, 2009, with sufficient first-class postage to the following:

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

HOWARD EASTER
SHIRLEY EASTER
4309 HAPPY VALLEY RD
NAMPA, ID 83686
Phone: 208-466-8430

RECEIVED

MAR 26 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
MAR 25 2009	
By _____	Clerk
Deputy Clerk	

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

Subcase No.: 63-20931

ORDER OF REFERENCE APPOINTING
SPECIAL MASTER THEODORE R. BOOTH

On March 25, 2009, this Court received correspondence from Harold and Shirley Easter regarding the above-captioned water right claim. A copy of the correspondence is attached to this *Order*. The original of the correspondence was file stamped, docketed as received, and lodged in the subcase file. Where the water right claim was previously uncontested, a subcase file was created for the correspondence. Where a *Partial Decree* was previously entered for the water right claim, the *Partial Decree* was also included in the subcase file.

THE FOLLOWING ARE HEREBY ORDERED:

1. That Theodore R. Booth is appointed Special Master to preside over the above-captioned water right claim for the following purposes:

a. To determine the intended purpose of the correspondence and the legal significance of the correspondence, if any. For example, the Special Master may determine whether the correspondence constitutes a motion to correct a clerical error pursuant to I.R.C.P. 60(a), or a motion to set aside a *Partial Decree* pursuant to I.R.C.P. 60(b), etc.;

b. To determine whether the correspondence complies with *SRBA Administrative Order 1 (AOI)* and the Idaho Rules of Civil Procedure or whether additional time should be granted to allow the party to file an appropriate motion with the Special Master and/or to obtain counsel in the matter; whether the matter should be dismissed on its face; or to determine whether the matter would be more appropriately processed administratively through the Idaho Department of Water Resources;

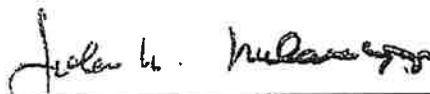
c. If the correspondence is ultimately deemed a sufficient motion, or in the event a new motion is filed in compliance with the applicable rule(s), the Special Master shall conduct all proceedings necessary to issue a recommendation as to the underlying merits. For example, if the Special Master concludes a *Partial Decree* should be set aside or amended, the recommendation should not only include that the *Partial Decree* be amended or set aside, but should also include how the elements of the water right should be partially decreed.

2. The original of this *Order* shall be placed in the subcase file and the file transferred to the Special Master for proceedings consistent with this *Order*.

3. The Special Master shall issue a *Special Master's Report and Recommendation* on the matter consistent with *AOI*.

IT IS SO ORDERED.

DATED March 25, 2009.



JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF REFERENCE was mailed on March 25, 2009, -with-sufficient first-class postage to the following:

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

HOWARD EASTER
SHIRLEY EASTER
4309 HAPPY VALLEY RD
NAMPA, ID 83686
Phone: 208-466-8430

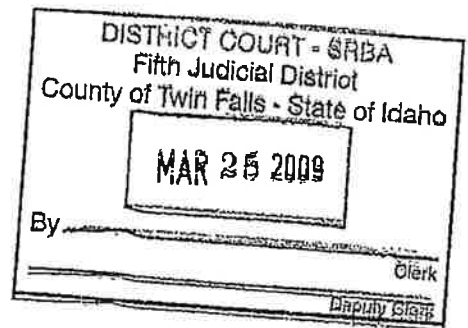
March 20, 2009

2274

Case # 39576

63-20931

State of Idaho
District Court
Snake River Basin Adjudication
Attn: Ted Booth



Dear Sir:

I am writing this letter today, because I received a letter saying I was being Disallowed my water rights I have used this water since 1969, and before that my uncle used this water from this Drain Ditch it is composed of water from ~~near~~ off the farm above me waste. I pay a water Bill each year but I have no way of receiving this water there is no Ditch I only own 2 acres at present, all in yard. I water this yard with a small pump, pumping out of the Drain Ditch. My wife and I have been retired since 1992, and have been out of State quite a bit I have never seen any papers asking us to refile on this Ditch.

I would like to have this partial Decree Reversed if at all possible, it is the only way I have to water my yard.

4309 HAPPY VALLEY RD.
NAMPA, IDAHO
83686

Hoping you can do something
Harold & Shirley Easter

08/31/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-20931

NAME AND ADDRESS: HOWARD EASTER
4309 HAPPY VALLEY RD
NAMPA ID 83686

SHIRLEY EASTER
4309 HAPPY VALLEY RD
NAMPA ID 83686

SOURCE: UNNAMED DRAIN

TRIBUTARY: INDIAN CREEK

QUANTITY: 0.600 CFS

PRIORITY DATE: 03/15/1950

POINT OF DIVERSION:

T02N R02W S12 NESENE Within CANYON County

T02N R02W S12 NWESENE Within CANYON County

T02N R02W S12 SWESENE Within CANYON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

3/15 11/15

0.600 CFS

PLACE OF USE: IRRIGATION Within CANYON County

T02N R02W S12 SENE 30.00

30 ACRES TOTAL

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

No beneficial use found.

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM -

No beneficial use found: This is included for a claim based on beneficial use that is proposed to be disallowed because beneficial use of water was not confirmed by IDWRs field examination or by other evidence submitted by the claimant.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-20931

WATER RIGHT NUMBER: 63-20931

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	HOWARD EASTER 4309 HAPPY VALLEY RD NAMPA, ID 83686 (208)466-8430
Current Owner	SHIRLEY EASTER 4309 HAPPY VALLEY RD NAMPA, ID 83686 (208)466-8430

Priority Date: 03/15/1950

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
UNNAMED DRAIN	INDIAN CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	3/15 to 11/15	0.600 CFS	
<u>Total Diversion:</u>		0.600 CFS	

Location of Point(s) of Diversion

UNNAMED DRAIN CANYON County	SW1/4SE1/4NE1/4	Sec. 12, Twp 02N, Rge 02W, B.M.
UNNAMED DRAIN CANYON County	NW1/4SE1/4NE1/4	Sec. 12, Twp 02N, Rge 02W, B.M.
UNNAMED DRAIN CANYON County	NE1/4SE1/4NE1/4	Sec. 12, Twp 02N, Rge 02W, B.M.

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	02W	12				30.0													30.0

Total Acres: 30

Conditions of Approval:Remarks:Water Supply Bank:

Receipt Details for ID M005869

Status	Adjustment Type	Version
	Adjusted Receipt	1

General Information:

Date Received	Date Deposited	Region	Total Amount	Payment Type
2/13/1990 3:36:40 PM	2/13/1990	Mobile	\$105.00	Check
Payer	EASTER, HOWARD			

Account Information:

Check #	Account #	Credit Card Name	Authorization #
859			
Card Expiration Date	Credit Card Transaction #		

Comment ADJUDICATION FEE**Fee Detail:**

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$105.00	ADJUDICATION FEE	410162	9337	0	0	6490

Refund(s):

Amount	Payee	Date	Document Number
--------	-------	------	-----------------

Water Right Information:

Basin Number	Sequence Number	Split Suffix	Amount	Type
63	20930		\$25.00	Claim
63	20931		\$80.00	Claim

[Print Report](#)

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM POU REVIEW REPORT
ADJUDICATION CLAIM NUMBER: 63-20931

03/30/2006

1

Right #	Type	Twp	Rge	Sec	QQ	Q	Lot	Purpose of Use	Acres/Total	Name
20931	Claim	02N	02W	12	SE	NE		IRRIGATION	30/30	HOWARD EASTER
19884	Water Right	02N	02W	12	SE	NE		STOCKWATER		HARRY R ELLIS
19885	Water Right	02N	02W	12	SE	NE		STOCKWATER		HARRY R ELLIS
19886	Water Right	02N	02W	12	SE	NE		STOCKWATER		BESSIE L ELLIS
20930	Water Right	02N	02W	12	SE	NE		STOCKWATER		SHIRLEY EASTER
28234	Water Right	02N	02W	12	SE	NE		STOCKWATER		STEVEN K OKI
19884	Water Right	02N	02W	12	SE	NE		DOMESTIC		HARRY R ELLIS
19885	Water Right	02N	02W	12	SE	NE		DOMESTIC		HARRY R ELLIS
19886	Water Right	02N	02W	12	SE	NE		DOMESTIC		BESSIE L ELLIS
20930	Water Right	02N	02W	12	SE	NE		DOMESTIC		SHIRLEY EASTER
20981	Water Right	02N	02W	12	SE	NE		DOMESTIC		TRELLIS J HODGE
28234	Water Right	02N	02W	12	SE	NE		DOMESTIC		STEVEN K OKI

1) PROPERTY INQUIRY

```

+++++
01 6R29514-000- -0 144-00 N SCH131+ 12 32,500 1.00
+++++
2A 8,800 1.00
EASTER, HOWARD J + 31 31,400
& EASTER, SHIRLEY H/W + 32 1,000
+
+
+
4309 HAPPY VALLEY +
NAMPA ID 83686 +
+++++
12-2N-2W NE + TOTAL 73,700 2.00
TX 95222 IN SENE ++++++
+ SURVEY 9508559 INST 9508559
+ DRAIN DR VALUE APPR MKB
+ CLASS 1 REAP 00 MAN 99 UNIT 1
+ PARCEL 6R02N02W121807 H/O N C/B N
+ PRIOR ACCOUNT 5R29514-000- -0
+ 02 MH on Property NO

```

MODE:F ACTION:

TRAITS INQUIRY

TRQK318

ACCOUNT NUMBER R29514000 0 UNIT 001 TOTAL UNITS 1

SITE 4309 HAPPY VALLEY RD NA SEC/TWN/RNG 12-2N-2W

ASSESSED VALUE 73,700 ACREAGE 2.00

SUB/PARK NAME YEAR/MAKE

CLASS 1 OWNER / OCCUPIED HOUSE CLASS ' 1' SPACE LOT BLOCK

```

+++++
YR BUILT 1967 AIR COND AIR - NONE CARPORT N
STORY 1 STORY HEATING OIL CARPORT SQ FT
FIRST SQ FT 1272 EXTERIOR METAL SIDING DECK/PATIO? Y
SECOND SQ FT ROOF COMP POOL? N
BEDS 3 BSMT SQ FT SPA? N
BATHS 1.00 % BSMT FIN LOT SIZE
FRPLC 0 GARAGE N NEIGHBORHOOD 0
GARAGE SQ FT

```

COMMENTS

MOBILE HOME ONLY

WIDTH/LENGTH

EXPANDO



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

4/4/2006

HOWARD AND SHIRLEY EASTER
4309 HAPPY VALLEY RD
NAMPA ID 83686

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

RE: EVIDENCE OF PRIORITY
Snake River Basin Claim No(s): 63-20931

Dear Claimant(s),

In the past, you submitted the above referenced claim(s) during the Snake River Basin Adjudication (SRBA) claims taking. Enclosed is a computer generated printout of the claim(s) for your reference only, it is not necessary to return this printout or re-file it. You indicated, when these claims were filed, that the water right(s) was based on either a "Statutory Claim" or "Beneficial Use" of the water. Water rights of this type are established by historical use of the water for a beneficial use purpose, dating back to the time the water was first used; this date being the "Priority Date" as shown on the enclosed print-out. This claim(s) has not been confirmed by a previous filing with the Idaho Department of Water Resources (IDWR) since there is no decree, license, or permit on file to verify the use of this water. For this reason, IDWR is required to gather evidence from claimants supporting the date of priority for claims based on historical beneficial use of water.

Enclosed is a pamphlet entitled "**Evidence of Priority**" which describes why evidence of the priority date is necessary, along with examples of types of evidence that can be submitted to fulfill this requirement. While I encourage you to read the entire pamphlet, I direct your attention to the two sections entitled "**What Kind of Evidence is Required**" and "**Some Examples of Documents Which May Be Evidence of the Priority Date.**"

If no evidence of this priority date is submitted, or we do not hear from you within the time limit below, your priority date, as claimed, may not be recommended to the SRBA court for decree. This could jeopardize your water use under this right(s) if water availability problems arise in the future. The required evidence supporting the priority date(s) requested needs to be submitted by APRIL 28, 2005.

Please let me know if you have any questions not covered by this letter and the enclosed pamphlet, by the date indicated above.

Sincerely,

Sandy Egbert
GIS Specialist

Enclosures

*Disallow
no response
letter not returned*



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 7, 1995

A63-20931
HOWARD EASTER
SHIRLEY EASTER
4309 HAPPY VALLEY RD
NAMPA ID 83686

Re: Claim No(s). A63-20931

Dear Claimant(s):

In the past, you submitted the above referenced claim(s) in the Snake River Basin Adjudication. Enclosed is a computer generated print-out of the claim(s) for your reference only; this print-out is **NOT** to be returned or re-filed. You have indicated when this claim was filed that the water right(s) was based on either a "Statutory Claim" or "Beneficial Use" of the water. Water rights of this type are established by the historical use of water for a beneficial purpose, dating back to the time the water was first used, this date being the "Priority Date" as shown on the enclosed print-out. Your claim(s) has not been confirmed by a previous filing with the Department of Water Resources since there is no decree, license, or permit on file to verify the use of this water. For this reason, the Department is under a legal requirement to gather evidence from claimants supporting the date of priority for claims based on historical beneficial use of water. Any other claims you may have filed, that are not listed above, do not require evidence of priority be submitted at this time.

Enclosed is a pamphlet entitled "Evidence of Priority" which describes why evidence of the priority date is necessary along with examples of types of evidence that can be submitted to fulfill this requirement. If no evidence is submitted, or we do not hear from you within the time limit below, your priority date, as claimed, may not be recommended to the Court for decree. This could jeopardize your water use under this right(s), if water availability problems arise in the future. It is our goal to decree the historical water rights within the Snake River Basin as accurately as possible. Field exams to verify claims in this area are now being conducted by Department personnel. Please contact this office as soon as possible to schedule a field exam appointment convenient for you.

The required evidence supporting the priority date(s) must be submitted by September 1 1995, referencing all documents with the corresponding claim number(s). If you have any questions not covered by this letter, or the enclosed pamphlet, please call the Western Region office shown above.

Adjudication Section
Department of Water Resources
Western Region Office

lh
Enclosures