DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho
JAN 30 2003
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	)	**SPECIAL MASTER'S REPORT**
	)	
Case No. 39576	)	**FINDINGS OF FACT AND CONCLUSIONS OF LAW**
	)	
	)	**FOR WATER RIGHTS (SEE ATTACHED EXHIBIT A BASIN 78)**
_____	)	

I. FINDINGS OF FACT

A notice of claim was filed for the above listed water rights pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of these water rights.

On September 17, 1999, an objection was filed to the above listed water rights by Pickett Ranch & Sheep Co, Western Stockgrowers Assoc., Joe Tugaw, Michael Poulton, Gary Poulton, Karl Bedke, Jared Bedke, Scott Bedke, Bruce Bedke, Jerry Hoagland and Joyce Livestock Company. On August 29, 2001, the parties filed a *Stipulation and Joint Motion for Order Approving Stipulation, Notice of Withdrawal of Objections and Responses* filed by Semanko for Bruce Bedke et al, *Notice of Withdrawal of Objections and Responses* filed by Semanko for Western Stockgrowers et al. On September 18, 2002, an ***Order Dismissing Objections and Responses with Prejudice; and Order Dimsissing Parties*** was issued. On October 2, 2002, Special Master Cushman issued an ***Order Setting Deadline for Motions and Standard Form 5's.*** The ***Order*** stated "If no Standard Forms 5 are filed, the rights listed on Exhibit A will be recommended as in the Director's Report."

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that the water rights listed on Exhibit A Basin 78 be **decreed** with the elements as set forth in the attached ***Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b).*** IT IS FURTHER RECOMMENDED that water right 78-10576 be **decreed** as **disallowed.**

DATED January 30, 2002.

THOMAS R. CUSHMAN
Special Master
Snake River Basin Adjudication

EXHIBIT A BASIN 78

Subcase Nos:

78-04145	78-10409	78-10477	78-10538
78-04146	78-10412	78-10478	78-10539
78-04147	78-10414	78-10479	78-10540
78-04150	78-10415	78-10481	78-10541
78-04153	78-10416	78-10482	78-10542
78-04155	78-10417	78-10483	78-10543
78-04156	78-10418	78-10484	78-10569
78-04178	78-10419	78-10485	78-10619
78-04179	78-10420	78-10487	78-10620
78-04180	78-10421	78-10489	78-10621
78-04182	78-10422	78-10490	78-10622
78-04183	78-10423	78-10492	78-10661
78-04189	78-10424	78-10494	78-11977
78-04192	78-10425	78-10495	78-11978
78-04227	78-10426	78-10496	78-11979
78-04230	78-10427	78-10497	78-11981
78-04231	78-10428	78-10499	78-11982
78-04240	78-10429	78-10500	78-11983
78-04242	78-10430	78-10501	78-11985
78-04245	78-10431	78-10502	78-11988
78-04273	78-10432	78-10503	78-11990
78-04274	78-10437	78-10504	78-11992
78-04326	78-10438	78-10505	78-11998
78-04368	78-10439	78-10506	78-11999
78-04370	78-10440	78-10510	78-12017
78-04371	78-10441	78-10511	78-12019
78-10381	78-10442	78-10512	78-12103
78-10383	78-10443	78-10514	
78-10385	78-10444	78-10515	
78-10386	78-10446	78-10516	
78-10387	78-10447	78-10517	
78-10388	78-10448	78-10518	
78-10390	78-10449	78-10520	
78-10391	78-10452	78-10521	
78-10392	78-10453	78-10522	
78-10393	78-10454	78-10523	
78-10394	78-10455	78-10524	
78-10395	78-10456	78-10525	
78-10396	78-10457	78-10526	
78-10397	78-10458	78-10527	
78-10398	78-10459	78-10528	
78-10399	78-10461	78-10529	
78-10400	78-10462	78-10530	
78-10401	78-10463	78-10531	
78-10402	78-10464	78-10532	
78-10404	78-10466	78-10533	
78-10405	78-10467	78-10534	
78-10406	78-10469	78-10535	
78-10407	78-10472	78-10536	
78-10408	78-10476	78-10537	

(Subcase list: TCB78UNCON)
1/29/03

2003 JAN 30 AM 9:27

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): 78-04145 (SEE ATTACHED EXHIBIT A)

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 January 30, 2003, with sufficient first-class postage prepaid to the following:

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

USDA FOREST SERVICE
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

Debbie Lash
DEBBIE LASH
Deputy Clerk

2003 JAN 30 AM 9:27

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	)))))	NOTICE OF ISSUANCE OF SPECIAL MASTER'S RECOMMENDATION Water Right(s): 78-04145 (SEE ATTACHED EXHIBIT A)

On January 30, 2003, Special Master THOMAS R CUSHMAN 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 January 30, 2003.

Debbie Lash

DEBBIE LASH
Deputy Clerk

2003 JAN 30 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	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 78-10437

NAME AND ADDRESS: USDA FOREST SERVICE
550 W FORT ST, MSC 033
BOISE, ID 83724

SOURCE: FRY PAN CREEK TRIBUTARY: RAPID RIVER

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 05/01/1900

POINT OF DIVERSION:

T22N R01W S33	SWNE	(Instream Ending Point)	Within Adams County
S36	NWNW	(Instream Beginning Point)	

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Stockwater	07-01 TO 10-31	0.02 CFS

PLACE OF USE: Stockwater

		Within Adams County
T22N R01W S33	SWNE	SENE
S34	SWNE	SENE
	SWNW	NESW
	NWSW	NESE
	NWSE	
S35	NENE	SWNE
	SENE	SWNW
	SENW	
S36	NWNW	

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.

_____
Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

RECOMMENDATION
JAN 30 2003
SPECIAL MASTER