2003 FEB 20 PM 4:18

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	)	**Subcases 83-04049, *et al.***
	)	**(See attached list of 36 claims in Basin 83)**
Case No. 39576	)	**(USDA/FS)**
	)	
	)	**SPECIAL MASTER REPORT**

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Director's Report for Domestic and Stockwater, Reporting Area 22, IDWR Basin 83* on March 19, 1999. The Director recommended each of the above 36 claims to the United States of America, Department of Agriculture, Forest Service, 550 W. Fort Street, MSC 033, Boise, Idaho 83724, for .02 cfs from various creeks and streams for stockwater uses in Clearwater, Shoshone and Idaho Counties with priority dates between February 6, 1897, and June 15, 1967, based on beneficial use.

On September 17, 2000, *Objections* alleging the water right should not exist were filed by: Joyce Livestock Company, Jerry Hoagland, Bruce Bedke, Scott Bedke, Jared Bedke, Karl Bedke, Gary Poulton, Michael Poulton, Joe Tugaw, Western Stockgrowers Association and Pickett Ranch & Sheep Company.

However, on August 29, 2002, the objectors filed a *Notice of Withdrawal of Objections and Responses* in multiple subcases, including the above 36 claims and on September 5, 2002, the Special Master entered an ***Order Granting Withdrawal of Objections and Responses***. Finally, on October 1, 2002, the Special Master entered an ***Order Setting Deadlines*** requiring parties to file motions to correct any errors in the list of subcases covered by the previous ***Order*** no later than November 1, 2002. None of the parties moved to correct any errors.

Conclusions of Law

The United States of America, Department of Agriculture, Forest Service is entitled to partial decrees adjudicating water rights as recommended by IDWR and as described in the

attached ***Special Master Recommendations for Partial Decrees for the Above Listed 36 Claims in Basin 83***.

DATED February 20, 2003.

TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

2003 FEB 20 PM 4:18
CLERK
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)
)

CERTIFICATE OF MAILING

Water Right(s): 83-04049
(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 February 20, 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

Robbin Hall
ROBBIN HALL
Deputy Clerk

Exhibit A

Subcase Nos:

83-04049
83-04051
83-04059
83-10155
83-10156
83-10157
83-10158
83-10159
83-10167
83-10181
83-10182
83-10188
83-10189
83-10194
83-10195
83-10196
83-10198
83-10202
83-10210
83-10211
83-10214
83-10226
83-11903
83-11904
83-11907
83-11909
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83-11917
83-11919
83-11920
83-11921

2003 FEB 20 PM 4:18
SRBA
IDAHO

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): 83-04049 (SEE ATTACHED EXHIBIT A)

On February 20, 2003, Special Master TERRENCE A. DOLAN 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 February 20, 2003.

Robbin Hall
ROBBIN HALL
Deputy Clerk

Exhibit A

Subcase Nos:

83-04049
83-04051
83-04059
83-10155
83-10156
83-10157
83-10158
83-10159
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83-10196
83-10198
83-10202
83-10210
83-10211
83-10214
83-10226
83-11903
83-11904
83-11907
83-11909
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2003 FEB 20 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 83-04049

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

SOURCE: MOOSE CREEK TRIBUTARY: KELLY CREEK

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 07/01/1935

POINT OF DIVERSION: T39N R11E S09 SESE Within Clearwater County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Stockwater	05-01 TO 10-31	0.02 CFS

PLACE OF USE: Stockwater Within Clearwater County
T39N R11E S09 SESE

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.

RECOMMENDATION
FEB 20 2003
SPECIAL MASTER

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication