

2003 FEB 25 PM 12:10

FILED
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) Subcase 82-10310
Case No. 39576) (USDI/FS)
)
) AMENDED
) 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 82)* on March 19, 1999. The Director recommended 82-10310 to the United States of America, Department of Agriculture, Forest Service, 550 W. Fort Street, MSC 033, Boise, Idaho 83724, for .02 cfs from Bully Creek for instream stockwater use in Idaho County from May 1 to October 31 with a priority date of May 1, 1897, based on beneficial use.

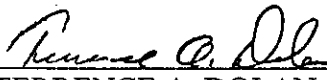
The United States filed an *Objection* on September 17, 1999, objecting point of diversion and place of use. On September 5, 2002, the Special Master entered an *Order Granting Withdrawal of Objections and Responses* allowing objectors / respondents Bedke, *et al.*, to withdraw their objections and responses before responsive pleadings were filed. Finally, on December 17, 2002, the United States and IDWR filed an *Amended Claim Standard Form 5* agreeing to an amended point of diversion and place of use.

On January 29, 2003, a *Special Masters Report* was issued for the above water right. On February 24, 2003, the United States filed a *Motion to Correct Clerical Errors* in the *Special Masters Report* stating "the places of use described in sections 02, 24, 25, 35, and 36 should all be in Township 28N, Range 03E. The place of use described in section 19 should be in Township 29N, Range 04E."

Conclusions of Law

The United States of America is entitled to a partial decree adjudicating a water right as described in the *Amended Claim Standard Form 5* and the attached *Amended Special Master Recommendation for Partial Decree for Water Right 82-10310*.

DATED February 25, 2003.


TERRENCE A. DOLAN
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

AMENDED

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

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

Water Right 82-10310

FILED
TWIN FALLS CO., IDAHO

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

SOURCE: BULLY CREEK TRIBUTARY: CLEARWATER RIVER, SOUTH FORK

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 05/01/1897

POINT OF DIVERSION: T28N R03E S02 NWNE (Instream Beginning Point) Within Idaho County
T29N R04E S19 SENE (Instream Ending Point)

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 Idaho County
T28N R03E S02 NENE NWNE
S24 SESE
S25 NENE NWNE
SWNE NESW
SESW NWSE
S35 SESE
S36 NENW SWNW
SENW NWSW
SWSW
T29N R04E S19 SWNE SENE
SWNW SENW
NWSW SWSW
NWSE

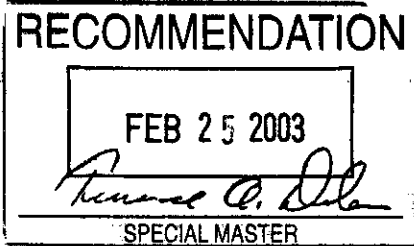
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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).

~~CONFIDENTIAL~~

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

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DIST. CLERK
TWIN FALLS CO., IDAHO
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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

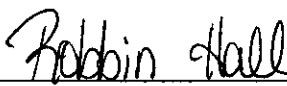
Water Right(s): 82-10310

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 25, 2003, with sufficient first-class postage prepaid to the following:

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

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



ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

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NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 82-10310

On February 25, 2003, Special Master HON. ROGER S. BURDICK 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 25, 2003.

Robbin Hall
ROBBIN HALL
Deputy Clerk