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Department of Water Resources

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	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
_____	)	FOR WATER RIGHTS 79-04380, 79-04417 and 79-04421

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 Dimissing Parties* was issued. On March 11, 2003, the State of Idaho filed a *Stipulation to Resolve Objections*. The Stipulation states that the State of Idaho withdraws its objections to these subcases. On April 24, 2003, this Special Master requested that pleadings be filed regarding priority dates of the multiple subcases pursuant to the stipulation of the parties. On May 15, 2003, the United States filed a *Notice Regarding Priority Date*.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Notice Regarding Priority Date*, IT IS RECOMMENDED that the above listed water rights be decreed with the elements as set forth in the attached *Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

DATED May 20, 2003.


THOMAS R. CUSHMAN
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 79-04380

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DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED

NAME AND ADDRESS: USDI BLM
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657

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Department of Water Resources

SOURCE: UNNAMED STREAM TRIBUTARY: CHINA CREEK
QUANTITY: 0.40 AFY

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

PRIORITY DATE: 12/31/1969

POINT OF DIVERSION: T31N R04W S21 SWSWNE Within Nez Perce County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater Storage	05-01 TO 10-31	0.40 AFY
	Stockwater from Storage	05-01 TO 10-31	0.40 AFY

PLACE OF USE:	Stockwater Storage	Within Nez Perce County
	T31N R04W S21 SWNE	
	Stockwater from Storage	Within Nez Perce County
	T31N R04W S21 SWNE	

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

MAY 20 2003

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)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 79-04417

2003 MAY 20 AM 10:54

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TWIN FALLS CO. IDAHO
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NAME AND ADDRESS: USDI BLM
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657

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Department of Water Resources

SOURCE: SPRING TRIBUTARY: SLATE CREEK
QUANTITY: 0.01 AFY

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

PRIORITY DATE: 06/10/1964

POINT OF DIVERSION: T26N R02E S08 NWNENE Within Idaho County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater from Storage	05-01 TO 10-15	0.01 AFY
	Stockwater Storage	05-01 TO 10-15	0.01 AFY

PLACE OF USE:	Stockwater Storage	Within Idaho County
	T26N R02E S08 NENE	
	Stockwater from Storage	Within Idaho County
	T26N R02E S08 NENE	

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

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Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

RECOMMENDATION

MAY 20 2003

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. 19576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 79-04421

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TWIN FALLS CO. IDAHO
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NAME AND ADDRESS: USDI BLM
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657

SOURCE: UNNAMED STREAM TRIBUTARY: BEAR GULCH

Department of Water Resources

QUANTITY: 0.01 APY

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

PRIORITY DATE: 11/15/1960

POINT OF DIVERSION: T26N R02E S09 NWNENW Within Idaho County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater Storage	05-01 TO 10-15	0.01 APY
	Stockwater from Storage	05-01 TO 10-15	0.01 APY

PLACE OF USE:	Stockwater Storage	Within Idaho County
	T26N R02E S09 NENW	
	Stockwater from Storage	Within Idaho County
	T26N R02E S09 NENW	

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

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Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

RECOMMENDATION

MAY 20 2003

SPECIAL MASTER

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Department of Water Resources

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DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED *[Signature]*

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): 79-04380
79-04417 79-04421

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 May 20, 2003, with sufficient first-class postage prepaid to the following:

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

USDI BLM

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

[Signature]

DEBBIE LASH
Deputy Clerk

CERTIFICATE OF MAILING

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05/20/03

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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

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 79-04380
79-04417 79-04421

On May 20, 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 May 20, 2003.

Debbie Lash
DEBBIE LASH
Deputy Clerk