

2003 MAY 22 PM 2: 52

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED 7/10

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 47-16132
) (USDI/BLM)
)
) ORDER GRANTING WITHDRAWAL
) OF OBJECTION
) and
) SPECIAL MASTER REPORT

Findings of Fact

The United States of America, Department of Interior, Bureau of Land Management ("USDI/BLM"), 1387 S. Vinnell Way, Boise, Idaho, 83709-1657, filed a *Notice of Claim to a Water Right* under 47-16132 claiming .02 cfs from a spring for year-'round stockwater use in Twin Falls County with a priority date of January 1, 1875, based on beneficial use. The USDI/BLM also based its claim on federal law with an April 17, 1926 priority date (PWR 107).

The Director of the Idaho Department of Water Resources filed his *Director's Report for Domestic and Stockwater, Reporting Area 12 (IDWR Basin 47)* on August 14, 1998. The Director recommended the beneficial use claim as filed.

On June 30, 1999, the Western Stock Growers Association filed a motion, entitled "We Hereby Petition the Court to Make a Motion for the Right to File Late Objections," and lodged with the motion an *Objection* alleging the water right should not exist:

We the Cattlemen of Western Stock Growers Association have, historically, put these water sources to beneficial use for over 100 years. Therefore we strongly object to the United States Government having a right on these water sources.

On July 2, 2001, the Special Master entered an *Order Staying Subcases* in the above subcase plus other similar claims filed by the USDI/BLM and the United States of America, Department of Agriculture, Forest Service. However, that *Order* was vacated in this subcase on

December 3, 2001, and on December 27, 2001, the Western Stock Growers Association's motion to file late objections was granted.

The USDI/BLM and the Western Stock Growers Association filed a *Stipulation and Joint Motion for Order Approving Stipulation* on August 29, 2002, stating they settled multiple stockwater subcases in Basins 32, 33, 37, 41, 45, 47, 67, 69, 77, 78, 79, 81, 82, 83, 84, 85 and 86. The *Joint Motion* was taken under advisement. Finally, on April 28, 2003, the Western Stockgrowers (sic) Association filed a *Notice of Withdrawal of Objection* in subcase 47-16132. There are no other parties to this subcase and all pending motions are now moot.

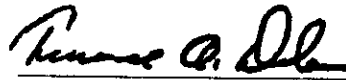
Order

THEREFORE, IT IS ORDERED that the Western Stock Growers Association's *Notice of Withdrawal of Objection* is **granted** and its *Objection* is **dismissed**.

Conclusions of Law

The USDI/BLM is entitled to a partial decree adjudicating a water right as recommended by IDWR and as described in the attached *Special Master Recommendation for Partial Decree for Water Right 47-16132*.

DATED May 22, 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

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 47-16132

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

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

SOURCE: SPRING TRIBUTARY: DRY GULCH

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 01/01/1875

POINT OF DIVERSION: T12S R18E S27 NWNWSW Within Twin Falls County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Stockwater Within Twin Falls County
T12S R18E S27 NWSW

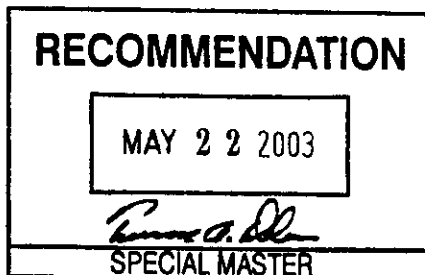
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

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In Re SRBA)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 47-16132

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 22, 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

Robbin Hall
ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

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TWIN FALLS CO., IDAHO
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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In Re SRBA)

Case No. 39576)
_____))

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 47-16132

On May 22, 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 May 22, 2003.

Robbin Hall

ROBBIN HALL
Deputy Clerk