

2003 JUN 24 AM 11:11

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) Subcase 47-16322
) (USDI/BLM)
)
_____) 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 12 (IDWR Basin 47)* on August 14, 1998. The Director recommended 47-16322 to the United States of America, Department of Interior, Bureau of Land Management ("USDI/BLM"), 1387 S. Vinnell Way, Boise, Idaho, 83709-1657, for .02 cfs from McMullen Creek for year-'round instream stockwater use in Twin Falls County with a priority date of January 1, 1875, based on beneficial use.

The State of Idaho filed an *Objection* on February 10, 1999, and on February 12, 1999, the USDI/BLM filed its own *Objection*. On December 27, 2001, the Western Stock Growers Association ("WSGA") was granted leave to file a late *Objection* alleging the water right should not exist. On January 15, 2002, the State of Idaho was granted leave to participate as an *amicus curiae*.

On August 29, 2002, the United States (USDI/BLM and USDA/FS) and certain "private parties," including the WSGA, filed a *Stipulation and Joint Motion for Order Approving Stipulation* in multiple subcases, including the above claim. In the *Stipulation*, the private parties agreed to dismiss their objections and responses. On April 21, 2003, the State's *Objection* was dismissed based on a *Stipulation to Resolve Objections* filed by the State and the USDI/BLM. Finally, on April 28, 2003, the USDI/BLM and the WSGA filed an *Amended Claim Standard Form 5*, with IDWR's concurrence, agreeing to a priority date of June 28, 1934.

Conclusions of Law

The USDI/BLM is entitled to a partial decree adjudicating a water right as described in the *Amended Claim Standard Form 5* and the attached *Special Master Recommendation for Partial Decree for Water Right 47-16322*.

DATED June 24, 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 47-16322

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

SOURCE: MC MULLEN CREEK TRIBUTARY: COTTONWOOD CREEK

QUANTITY: 0.02 CFS

THIS RIGHT SHALL BE USED IN CONJUNCTION WITH RIGHT NO. 47-
16748 AND IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF .02
CFS AND A TOTAL COMBINED QUANTITY OF 13,000 GALLONS PER DAY.

PRIORITY DATE: 06/28/1934

POINT OF DIVERSION: T12S R18E S05 SWSWE (Instream Beginning Point) Within Twin Falls County
NWSWE (Instream Ending Point)
S17 NESENW (Instream Ending Point)
S31 SESWSE (Instream Beginning Point)

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 S05 SWSE
S17 SENW NESW
SESW
S20 NENW NWNW
SWNW NWSW
SWSW
S29 NWNW
S30 NENE SENE
NESE NWSE
SWSE SESE
S31 NWNE SWNE
NWSE SWSE

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

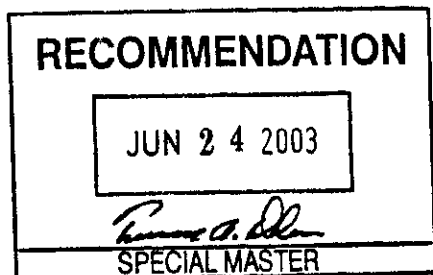
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

THE OPERATION, USE, AND ADMINISTRATION OF THIS WATER RIGHT IS
ALSO SUBJECT TO THE TERMS AND CONDITIONS OF THE STIPULATION AND
JOINT MOTION FOR ORDER APPROVING STIPULATION ENTERED INTO ON
AUGUST 29, 2002 BETWEEN THE UNITED STATES OF AMERICA AND WESTERN
STOCKGROWERS ASSOCIATION ET AL., FILED IN THE OFFICE OF THE TWIN
FALLS COUNTY RECORDER AND RECORDED ON APRIL 21, 2003 AS
INSTRUMENT NO. 2003-010014; THE PROVISIONS OF SUCH STIPULATION TO
APPLY FULLY TO THIS WATER RIGHT.

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)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 47-16322

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 June 24, 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

WESTERN STOCK GROWERS ASSOC.
2391 ROCK CREEK ROAD
HANSEN, ID 83334
Phone: 208-423-5066

CERTIFICATE OF MAILING

Robbin Hall

ROBBIN HALL
Deputy Clerk

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NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

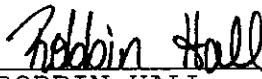
Water Right(s): 47-16322

On June 24, 2003, Special Master TERRENCE A. DOLAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (A01), 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 June 24, 2003.



ROBBIN HALL
Deputy Clerk