

2003 JUN 24 PM 3:09

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	) Subcase 47-16740
	) (split claims 47-16865 and 47-16866)
Case No. 39576	) (WSGA)
	)
	) SPECIAL MASTER REPORT
	) AND RECOMMENDATION

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 47-16740 to the Western Stock Growers Association ("WSGA"), 2391 Rock Creek Road, Hansen, Idaho, 83334, for .02 cfs from Rock Creek, Fifth Fork for stockwater use in Twin Falls County from May 15 to October 15 with a priority date of June 1, 1872, based on beneficial use.

On February 12, 1999, the United States of America, Department of Agriculture, Forest Service ("USDA/FS") and the United States of America, Department of Interior, Bureau of Land Management ("USDI/BLM") filed *Objections*. On January 15, 2002, the State of Idaho was granted leave to participate as an *amicus curiae*. However, on September 11, 2002, the State was granted leave to withdraw as a participant

On August 29, 2002, the United States (USDA/FS and USDI/BLM) and certain "private parties," including the WSGA, filed a *Stipulation and Joint Motion for Order Approving Stipulation* in multiple subcases, including 47-16740. As part of the *Stipulation*, the United States agreed to dismiss its objections. The parties later filed a *Notice of Clarification* on April 21, 2003. Finally, on April 28, 2003, the WSGA and the United States, with IDWR's concurrence, filed an *Amended Claim Standard Form 5* agreeing to split 47-16740 into 47-16865 and 47-16866. No one objected to the Director's amended recommendations.

Conclusions of Law

The WSGA is entitled to partial decrees adjudicating water rights as described in the *Amended Claim SF-5* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 47-16865 and 47-16866*.

Recommendation

THEREFORE, IT IS RECOMMENDED that 47-16740 **not** be adjudicated as a water right because the claim has been split into 47-16865 and 47-16866.

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)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Case No. 39576)
Water Right 47-16865

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TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: WESTERN STOCK GROWERS ASSOC
2391 ROCK CREEK RD
HANSEN, ID 83334

SOURCE: ROCK CREEK, FIFTH FORK TRIBUTARY: ROCK CREEK

QUANTITY: 0.02 CFS

THIS RIGHT SHALL BE USED IN CONJUNCTION WITH RIGHT NO. 47-
16866 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: 06/01/1872

POINT OF DIVERSION: T12S R18E S25 NESWSW (Instream Ending Point) Within Twin Falls County
S36 NWSWNW (Instream Beginning Point)
T14S R18E S10 SWSSE (Instream Beginning Point)
NWSESE (Instream Ending Point)

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Stockwater 05-15 TO 10-15 0.02 CFS

PLACE OF USE: Stockwater Within Twin Falls County
T12S R18E S25 SWSW
S36 NWNW SWNW
T14S R18E S10 SESE

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

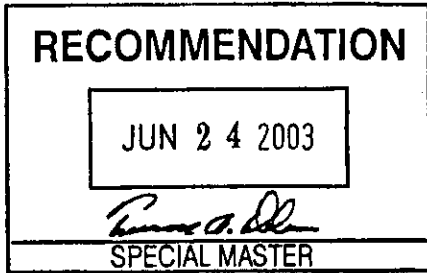
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

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

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 47-16866

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TWIN FALLS CO., IDAHO
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NAME AND ADDRESS: WESTERN STOCK GROWERS ASSOC
2391 ROCK CREEK RD
HANSEN, ID 83334

SOURCE: ROCK CREEK, FIFTH FORK TRIBUTARY: ROCK CREEK

QUANTITY: 0.02 CFS

THIS RIGHT SHALL BE USED IN CONJUNCTION WITH RIGHT NO. 47-
16865 AND 47-16300 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: 06/13/1890

POINT OF DIVERSION: T12S R18E S35 SESENE (Instream Ending Point) Within Twin Falls County
SESESW (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 S35	SENE SESW NESE SWSE

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

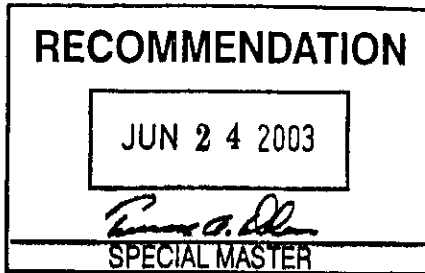
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

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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STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 47-16740
47-16865 47-16866

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

CERTIFICATE OF MAILING

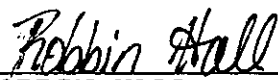
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06/24/03

BIRCHIE BROWN
BROKEN DIAMOND RANCH
DAVID CROCKETT
KINSEY FAMILY LLP
MATHERS RANCH
RAYMOND BUTLER
TOM KUNKEL
TUGAW RANCHES
WALLACE BROWN
WESTERN STOCK GROWERS ASSOC
WESTERN STOCK GROWERS ASSOCIAT
WESTERN STOCKGROWERS ASSN
WILLIAM J AND THOMAS WILLIAMS
WILLIAMS INC.
WILLIAMS PROPERTIES LLC

Represented by:
NORMAN M. SEMANKO
ATTORNEY AT LAW
205 N 10TH ST, STE 530
BOISE, ID 83702
Phone: 208-344-6690

USDA FOREST SERVICE
USDI BLM

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



ROBBIN HALL
Deputy Clerk

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In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 47-16740
47-16865 47-16866

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 (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 June 24, 2003.



ROBBIN HALL
Deputy Clerk