

2003 JUN 24 PM 3:02
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 47-16736
Case No. 39576) (split claims 47-16863, 47-16864 and 47-
17052)
) (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 47-16736 to the Western Stock Growers Association ("WSGA"), 2391 Rock Creek Road, Hansen, Idaho, 83334, for .02 cfs from North Cottonwood Creek 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 47-16736. 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 47-16736 into 47-16863, 47-16864 and 47-17052. 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 47-16863, 47-16864 and 47-17052*.

Recommendation

THEREFORE, IT IS RECOMMENDED that 47-16736 **not** be adjudicated as a water right because the claim has been split into 47-16863, 47-16864 and 47-17052.

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 47-16863

2003 JUN 24 PM 3:02

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

SOURCE: NORTH COTTONWOOD CREEK TRIBUTARY: ROCK CREEK

QUANTITY: 0.02 CFS

THIS RIGHT SHALL BE USED IN CONJUNCTION WITH 47-16864 AND 47-
17052, AND IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF .02
CFS AND A TOTAL QUANTITY OF 13,000 GALLONS PER DAY.

PRIORITY DATE: 06/01/1972

POINT OF DIVERSION: T13S R17E S26 SENE (Instream Ending Point) Within Twin Falls County
SENE (Instream Beginning 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
T13S R17E S26 SENE

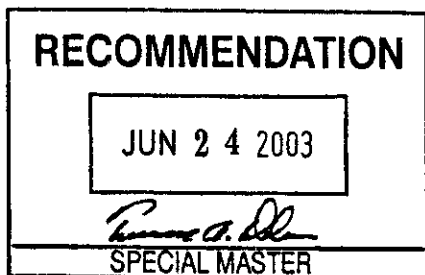
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

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 47-16864

2003 JUN 24 PM 3:02
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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

SOURCE: NORTH COTTONWOOD CREEK TRIBUTARY: ROCK CREEK

QUANTITY: 0.02 CFS

THIS RIGHT SHALL BE USED IN CONJUNCTION WITH 47-16863, 47-17052 AND 47-16321, 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 R17E S26 NWSNW (Instream Ending Point) Within Twin Falls County
SESWE (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 R17E S26	SWNW	NESW
		NWSW	SESW
	S35	NENW	SENW
		NESW	NWSE
		SWSE	

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

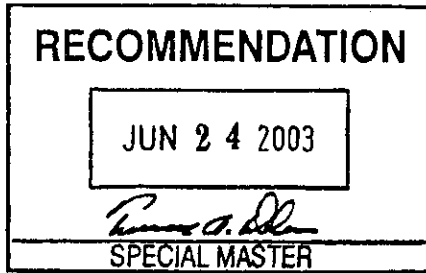
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

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

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

2003 JUN 24 PM 3:02

In Re SRBA)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Case No. 39576)
Water Right 47-17052

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

SOURCE: NORTH COTTONWOOD CREEK TRIBUTARY: ROCK CREEK

QUANTITY: 0.02 CFS

THIS RIGHT SHALL BE USED IN CONJUNCTION WITH 47-4514, 47-16863
AND 47-16864 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: 04/30/1875

POINT OF DIVERSION: T13S R17E S02 NWNE (Instream Ending Point) Within Twin Falls County
S26 SESE (Instream Beginning 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 Twin Falls County
	T13S R17E S02	NWNE	SWNE
		NWSE	SWSE
	S11	NWNE	SWNE
		SENE	NESW
		SESW	
	S14	NWNE	SWNE
		NENW	NWSE
		SWSE	
	S23	NENE	NWNE
		SWNE	SENE
		NWSE	SWSE
	S26	NENE	NWNE
		SWNE	NESE
		NWSE	SESE

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

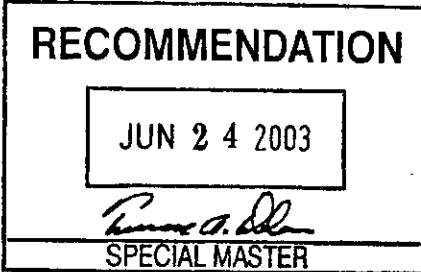
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

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

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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)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 47-16736
47-16863 47-16864 47-17052

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

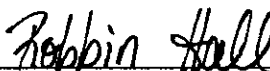
PAGE 1
06/24/03

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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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)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

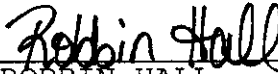
Water Right(s): 47-16736
47-16863 47-16864 47-17052

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