

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

DISTRICT COURT-SRBA

Fifth Judicial District

County of Twin Falls - State of Idaho

JUN 24 2003

By

Clerk

Deputy Clerk

In Re SRBA)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 47-17008

NAME AND ADDRESS: USDA FOREST SERVICE
550 W FORT ST MSC 033
BOISE, ID 83724

SOURCE: SHOSHONE CREEK TRIBUTARY: SALMON FALLS CREEK

QUANTITY: 0.02 CFS

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

THIS RIGHT SHALL BE USED IN CONJUNCTION WITH RIGHT NO. 47-17009
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: 06/12/1905

POINT OF DIVERSION: T14S R17E S13 NENE Within Twin Falls County

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
T14S R17E S13 NENE

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 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.

RECOMMENDATION

JUN 24 2003

Roger A. Burdick
SPECIAL MASTER

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

2003 JUN 24 PM 2: 43

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	) Subcases 47-14999, <i>et al.</i>
	) (split claims 47-16873 & 47-16874, <i>et al.</i>)
Case No. 39576	) (USDA/FS & WSGA) ¹
	)
	) 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 85 of the 89 claims, to the United States of America, Department of Agriculture, Forest Service ("USDA/FS"), 550 W. Fort Street MSC 033, Boise, Idaho, 83724, as filed for *de minimis* amounts from various creeks, springs, ponds, gulches, stream reaches and a reservoir for stockwater use, all with a priority date of May 1, 1875, based on beneficial use. The Director recommended that claim 47-15109 be disallowed.

The Director recommended 3 claims (47-16728, 47-16733 and 47-16747) to the Western Stock Growers Association ("WSGA"), 2391 Rock Creek Road, Hansen, Idaho, 83334, as filed for *de minimis* amounts from multiple sources for stockwater use, all with a priority date of June 1, 1872, based on beneficial use. The USDA/FS filed *Objections* to the WSGA claims on April 16, 1999. On June 30, 1999, the WSGA filed *Objections* to the USDA/FS claims.

On January 15, 2002, the State of Idaho was granted leave to participate as an *amicus curiae*. Later, on September 11, 2002, the State's motion to withdraw was granted.

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*

¹ Attachment A to the *Special Master Report and Recommendation* is a list of the 89 original claim numbers ("base claims") that are being recommended as disallowed. The list also includes the corresponding split rights being recommended: 89 to the USDA/FS and 89 to the Western Stock Growers Association.

Stipulation in multiple subcases, including the above 89 claims. As part of the *Stipulation*, the parties agreed to dismiss their objections and responses to the above 89 claims and split the base claims between the USDA/FS and the WSGA. The parties later filed a *Notice of Clarification* of the *Stipulation* on April 21, 2003.

On April 28, 2003, the parties, with IDWR's concurrence, filed *Amended Claim Standard Forms 5* for the 89 claims agreeing to split each base claim into 2 rights with the use of both limited to a total combined diversion rate of .02 cfs and a combined quantity of 13,000 gallons per day. The WSGA rights would have a June 13, 1890 priority date and the USDA/FS rights would have a June 12, 1905 priority date. No one objected to the Director's amended recommendations.

Conclusions of Law

The USDA/FS and the WSGA are entitled to partial decrees adjudicating water right as described in the attached *Special Master Recommendations for Partial Decrees for Water Rights 47-16873 & 47-16874, et al.*

Recommendation

THEREFORE, IT IS RECOMMENDED that the base claims (47-14999, *et al.*) **not** be decreed as water rights because each of the claims has been split.

DATED June 24, 2003.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

ATTACHMENT A

Basin No.	Column 1 (Original Claim #'s)	Column 2 (New FS)	Column 3 (New WSG #'s)
47	14999	16873	16874
47	15001	16875	16876
47	15002	16877	16878
47	15004	16879	16880
47	15005	16881	16882
47	15028	16883	16884
47	15045	16885	16886
47	15048	16887	16888
47	15051	16889	16890
47	15052	16891	16892
47	15054	16893	16894
47	15055	16895	16896
47	15056	16897	16898
47	15058	16899	16900
47	15060	16901	16902
47	15061	16903	16904
47	15062	16905	16906
47	15063	16907	16908
47	15075	16909	16910
47	15077	16911	16912
47	15082	16913	16914
47	15083	16915	16916
47	15086	16917	16918
47	15090	16919	16920
47	15091	16921	16922
47	15092	16923	16924
47	15093	16925	16926
47	15095	16927	16928
47	15106	16929	16930
47	15107	16931	16932
47	15108	16933	16934
47	15109	16935	16936
47	15110	16937	16938
47	15117	16939	16940
47	15119	16941	16942
47	15128	16943	16944
47	15131	16945	16946
47	15132	16947	16948
47	15135	16949	16950

Basin No.	Column 1 (Original Claim #'s)	Column 2 (New FS)	Column 3 (New WSG #'s)
47	15136	16951	16952
47	15137	16953	16954
47	15138	16955	16956
47	15139	16957	16958
47	15140	16959	16960
47	15142	16961	16962
47	15143	16963	16964
47	15144	16965	16966
47	15147	16967	16968
47	15148	16969	16970
47	15149	16971	16972
47	15151	16976	16977
47	15152	16974	16975
47	15153	16978	16979
47	15155	16980	16981
47	15164	16982	16983
47	15177	16984	16985
47	15178	16986	16987
47	15179	16988	16989
47	15195	16990	16991
47	15196	16992	16993
47	15197	16994	16995
47	15199	16996	16997
47	15200	16998	16999
47	15204	17000	17001
47	16429	17002	17003
47	16648	17004	17005
47	16649	17006	17007
47	16651	17008	17009
47	16652	17010	17011
47	16655	17012	17013
47	16677	17014	17015
47	16678	17016	17017
47	16679	17018	17019
47	16680	17020	17021
47	16683	17022	17023
47	16684	17024	17025
47	16686	17026	17027
47	16687	17028	17029
47	16688	17030	17031
47	16692	17032	17033
47	16693	17034	17035
47	16694	17036	17037
47	16702	17038	17039

Basin No.	Column 1 (Original Claim #'s)	Column 2 (New FS)	Column 3 (New WSG #'s)
47	16704	17040	17041
47	16710	17042	17043
47	16722	17044	17045
47	16728	17048	17049
47	16733	17050	17051
47	16747	17046	17047

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DISTRICT COURT-SRBA
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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In Re SRBA

CERTIFICATE OF MAILING

Case No. 39576

Water Right(s): 47-14999

(SEE ATTACHED EXHIBIT A)

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



ROBBIN HALL
Deputy Clerk

2003 JUN 24 PM 2:43

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)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 47-14999
(SEE ATTACHED EXHIBIT A)

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

Exhibit A

Subcase Nos:

47-14999	47-15151
47-15001	47-15152
47-15002	47-15153
47-15004	47-15155
47-15005	47-15164
47-15028	47-15177
47-15045	47-15178
47-15048	47-15179
47-15051	47-15195
47-15052	47-15196
47-15054	47-15197
47-15055	47-15199
47-15056	47-15200
47-15058	47-15204
47-15060	47-16429
47-15061	47-16648
47-15062	47-16649
47-15063	47-16651
47-15075	47-16652
47-15077	47-16655
47-15082	47-16677
47-15083	47-16678
47-15086	47-16679
47-15090	47-16680
47-15091	47-16683
47-15092	47-16684
47-15093	47-16686
47-15095	47-16687
47-15106	47-16688
47-15107	47-16692
47-15108	47-16693
47-15109	47-16694
47-15110	47-16702
47-15117	47-16704
47-15119	47-16710
47-15128	47-16722
47-15131	47-16728
47-15132	47-16733
47-15135	47-16747
47-15136	
47-15137	
47-15138	
47-15139	
47-15140	
47-15142	
47-15143	
47-15144	
47-15147	
47-15148	
47-15149	

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In Re SRBA)

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Case No. 39576)
_____)

Water Right(s): 47-16873
(SEE ATTACHED EXHIBIT A)

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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:

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BOISE, ID 83720-0098

WESTERN STOCK GROWERS
WESTERN STOCK GROWERS ASSOC
WESTERN STOCK GROWERS ASSOC.

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

UNITED STATES OF AMERICA
UNITED STATES OF AMERICA THRU
USDA FOREST SERVICE

Represented by:
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ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
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ROBBIN HALL
Deputy Clerk

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FILED

In Re SRBA)
)
Case No. 39576)
)
)
)

Water Right(s): 47-16873
(SEE ATTACHED EXHIBIT A)

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.

DATED June 24, 2003.

Robbin Hall
ROBBIN HALL
Deputy Clerk

Exhibit A

Subcase Nos:

47-16873	47-16923	47-16974	47-17024
47-16874	47-16924	47-16975	47-17025
47-16875	47-16925	47-16976	47-17026
47-16876	47-16926	47-16977	47-17027
47-16877	47-16927	47-16978	47-17028
47-16878	47-16928	47-16979	47-17029
47-16879	47-16929	47-16980	47-17030
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47-16921	47-16971	47-17022	
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