

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

DISTRICT COURT-SRBA

Fifth Judicial District  
County of Twin Falls - State of Idaho

In Re SRBA

Case No. 39576

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

Water Right 47-17026

JUN 24 2003

By

Clerk

Deputy Clerk

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

SOURCE: NORTH WILLOW SPRING TRIBUTARY: NORTH WILLOW SPRINGS 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. 47-17027  
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: T13S R18E S09 NWNESE Within Twin Falls County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE  
Stockwater

PERIOD OF USE  
05-01 TO 10-31

QUANTITY  
0.02 CFS

PLACE OF USE: Stockwater Within Twin Falls County  
T13S R18E S09 SENW NESW

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.

### RECOMMENDATION

JUN 24 2003

*Thomas A. Olsen*  
SPECIAL MASTER

Rdger 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) <sup>1</sup>                      |
|                | )                                                    |
|                | ) SPECIAL MASTER REPORT                              |
|                | ) AND RECOMMENDATION                                 |

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**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*

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<sup>1</sup> 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.



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TERRENCE A. DOLAN  
Special Master  
Snake River Basin Adjudication

# ATTACHMENT A

| Basin No. | Column 1<br>(Original<br>Claim #'s) | Column 2<br>(New FS) | Column 3<br>(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<br>(Original<br>Claim #'s) | Column 2<br>(New FS) | Column 3<br>(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<br>(Original<br>Claim #'s) | Column 2<br>(New FS) | Column 3<br>(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                     |

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

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

In Re SRBA )

Case No. 39576 )  
\_\_\_\_\_ )

CERTIFICATE OF MAILING

Water Right(s): 47-16873  
(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  
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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:  
US DEPARTMENT OF JUSTICE  
ENVIRONMENT & NATL' RESOURCES  
550 WEST FORT STREET, MSC 033  
BOISE, ID 83724

  
\_\_\_\_\_  
ROBBIN HALL  
Deputy Clerk

DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
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 |
| 47-16880 | 47-16930 | 47-16981 | 47-17031 |
| 47-16881 | 47-16931 | 47-16982 | 47-17032 |
| 47-16882 | 47-16932 | 47-16983 | 47-17033 |
| 47-16883 | 47-16933 | 47-16984 | 47-17034 |
| 47-16884 | 47-16934 | 47-16985 | 47-17035 |
| 47-16885 | 47-16935 | 47-16986 | 47-17036 |
| 47-16886 | 47-16936 | 47-16987 | 47-17037 |
| 47-16887 | 47-16937 | 47-16988 | 47-17038 |
| 47-16888 | 47-16938 | 47-16989 | 47-17039 |
| 47-16889 | 47-16939 | 47-16990 | 47-17040 |
| 47-16890 | 47-16940 | 47-16991 | 47-17041 |
| 47-16891 | 47-16941 | 47-16992 | 47-17042 |
| 47-16892 | 47-16942 | 47-16993 | 47-17043 |
| 47-16893 | 47-16943 | 47-16994 | 47-17044 |
| 47-16894 | 47-16944 | 47-16995 | 47-17045 |
| 47-16895 | 47-16945 | 47-16996 | 47-17046 |
| 47-16896 | 47-16946 | 47-16997 | 47-17047 |
| 47-16897 | 47-16947 | 47-16998 | 47-17048 |
| 47-16898 | 47-16948 | 47-16999 | 47-17049 |
| 47-16899 | 47-16949 | 47-17000 | 47-17050 |
| 47-16900 | 47-16950 | 47-17001 | 47-17051 |
| 47-16901 | 47-16951 | 47-17002 |          |
| 47-16902 | 47-16952 | 47-17003 |          |
| 47-16903 | 47-16953 | 47-17004 |          |
| 47-16904 | 47-16954 | 47-17005 |          |
| 47-16905 | 47-16955 | 47-17006 |          |
| 47-16906 | 47-16956 | 47-17007 |          |
| 47-16907 | 47-16957 | 47-17008 |          |
| 47-16908 | 47-16958 | 47-17009 |          |
| 47-16909 | 47-16959 | 47-17010 |          |
| 47-16910 | 47-16960 | 47-17011 |          |
| 47-16911 | 47-16961 | 47-17012 |          |
| 47-16912 | 47-16962 | 47-17013 |          |
| 47-16913 | 47-16963 | 47-17014 |          |
| 47-16914 | 47-16964 | 47-17015 |          |
| 47-16915 | 47-16965 | 47-17016 |          |
| 47-16916 | 47-16966 | 47-17017 |          |
| 47-16917 | 47-16967 | 47-17018 |          |
| 47-16918 | 47-16968 | 47-17019 |          |
| 47-16919 | 47-16969 | 47-17020 |          |
| 47-16920 | 47-16970 | 47-17021 |          |
| 47-16921 | 47-16971 | 47-17022 |          |
| 47-16922 | 47-16972 | 47-17023 |          |