

2003 JUL 16 PM 3: 56

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 82-10527, *et al.*
Case No. 39576) (see list of 138 subcases attached)
) (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 22 (IDWR Basin 82)* on March 19, 1999. The Director recommended the above 138 claims to the United States of America, Department of Interior, Bureau of Land Management ("USDI/BLM"), 1387 S. Vinnell Way, Boise, Idaho, 83709-1657, for a *de minimis* amount (.02 cfs) from various rivers, streams and creeks for year-round stockwater use in Idaho County with priority dates of either January 1, 1861, or January 1, 1878, based on beneficial use.

The State of Idaho filed *Objections* on June 2, 1999, objecting to priority dates and alleging the water rights should not exist. On August 29, 2002, the United States and certain "private parties" filed a *Stipulation and Joint Motion for Order Approving Stipulation* in multiple related subcases, including the above 138 subcases. As part of the *Stipulation*, the private parties agreed to dismiss their objections and responses and "for claims on lands administered by the Bureau of Land Management, the United States shall receive a water right with a priority date which is the later of a) the claimed priority date or b) June 28, 1934."

On September 5, 2002, the Special Master entered an *Order Granting Withdrawal of Objections and Responses* in the same multiple subcases objected to by the private parties. On April 21, 2003, the Special Master entered an *Order Dismissing State of Idaho Objections* based on a *Stipulation to Resolve Objections* filed by the United States and the State. Finally, on June

10, 2003, the USDI/BLM filed a *Notice Regarding Priority Date* stating the priority date for all of the above 138 subcases should be June 28, 1934.

Conclusions of Law

The USDI/BLM is entitled to partial decrees adjudicating water rights as agreed to in the *Stipulation* and as described in the attached *Special Master Recommendations for Partial Decrees*.

DATED July 16, 2003.



TERRENCE A. DOLAN

Special Master

Snake River Basin Adjudication

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In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 82-10527
(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 July 16, 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



ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

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Exhibit A

Subcase Nos:

82-10527	82-10583	82-10639
82-10528	82-10584	82-10640
82-10529	82-10585	82-10641
82-10530	82-10586	82-10642
82-10531	82-10589	82-10643
82-10532	82-10590	82-10644
82-10533	82-10591	82-10645
82-10537	82-10592	82-10646
82-10538	82-10593	82-10647
82-10539	82-10594	82-10648
82-10540	82-10595	82-10649
82-10541	82-10596	82-10650
82-10542	82-10597	82-10651
82-10543	82-10599	82-10652
82-10544	82-10600	82-10653
82-10545	82-10601	82-10654
82-10546	82-10602	82-10655
82-10547	82-10603	82-10656
82-10548	82-10604	82-10657
82-10549	82-10605	82-10658
82-10550	82-10606	82-10659
82-10551	82-10607	82-10660
82-10552	82-10608	82-10661
82-10553	82-10609	82-10662
82-10554	82-10610	82-10663
82-10555	82-10611	82-10664
82-10556	82-10612	82-10666
82-10557	82-10614	82-10667
82-10558	82-10615	82-10668
82-10559	82-10616	82-10669
82-10560	82-10617	82-10670
82-10561	82-10618	82-10671
82-10562	82-10619	82-10672
82-10564	82-10620	82-10674
82-10565	82-10621	82-11991
82-10566	82-10622	82-11993
82-10567	82-10623	82-11996
82-10568	82-10624	82-11998
82-10569	82-10625	
82-10570	82-10626	
82-10571	82-10627	
82-10572	82-10628	
82-10573	82-10629	
82-10574	82-10631	
82-10575	82-10632	
82-10576	82-10633	
82-10578	82-10635	
82-10579	82-10636	
82-10580	82-10637	
82-10582	82-10638	

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

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 82-10527
(SEE ATTACHED EXHIBIT A)

On July 16, 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 July 16, 2003.



ROBBIN HALL
Deputy Clerk

Exhibit A

Subcase Nos:

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82-10580	82-10637	
82-10582	82-10638	

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 82-10540

2003 JUL 16 PM 3:03

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

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

SOURCE: WHITAKER CREEK TRIBUTARY: AMERICAN RIVER

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 06/28/1934

POINT OF DIVERSION: T29N R08E S12 NESENE (Instream Beginning Point) Within Idaho County
S13 NWNWE (Instream Ending Point)
NESWNW (Instream Beginning Point)
NESWNW (Instream Ending 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 Idaho County
	T29N R08E S12	NESE
		SWSE
	S13	NWNE
		SWNW

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.

RECOMMENDATION

JUL 16 2003

Roger A. Burdick
SPECIAL MASTER

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication