

2003 JUL 16 PM 2:40  
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 85-11950, *et al.*  
Case No. 39576 ) (see list of 212 subcases attached)  
 ) (USDI/BLM)  
 )  
 ) SPECIAL MASTER REPORT

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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 22 (IDWR Basin 85)* on March 19, 1999. The Director recommended the above 212 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, creeks and a gulch for year-'round stockwater use in Clearwater, Idaho, Lewis and Nez Perce Counties with priority dates of either January 1, 1868, or November 18, 1895, based on beneficial use.

The State of Idaho filed *Objections* on June 2, 1999, objecting to priority date and alleging the water rights should not exist. On September 17, 1999, the Western Stockgrowers Association, Joyce Livestock Company, Jerry Hoagland, Pickett Ranch & Sheep Company, Michael and Gary Poulton, Bruce, Jared, Karl and Scott Bedke and Joe Tugaw ("private parties") filed *Objections* alleging the water rights should not exist.

On August 29, 2002, the United States and the private parties filed a *Stipulation and Joint Motion for Order Approving Stipulation* in multiple related subcases, including the above 212 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 related subcases objected to by the private parties. On April 21 and June 11, 2003, the Special Master entered *Orders 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 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 )  
 )  
Case No. 39576 )  
\_\_\_\_\_ )

CERTIFICATE OF MAILING

Water Right(s): 85-11950  
(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

PAGE 1  
07/16/03

Exhibit A

Subcase Nos:

|          |          |          |          |          |
|----------|----------|----------|----------|----------|
| 85-11950 | 85-12008 | 85-12071 | 85-12156 | 85-15249 |
| 85-11951 | 85-12009 | 85-12072 | 85-12157 | 85-15250 |
| 85-11952 | 85-12012 | 85-12074 | 85-12158 | 85-15251 |
| 85-11953 | 85-12013 | 85-12075 | 85-12160 | 85-15252 |
| 85-11954 | 85-12014 | 85-12076 | 85-12161 | 85-15254 |
| 85-11955 | 85-12015 | 85-12077 | 85-12162 | 85-15255 |
| 85-11956 | 85-12016 | 85-12078 | 85-12164 | 85-15256 |
| 85-11957 | 85-12017 | 85-12086 | 85-12165 | 85-15258 |
| 85-11958 | 85-12018 | 85-12089 | 85-12167 | 85-15260 |
| 85-11959 | 85-12020 | 85-12091 | 85-12168 | 85-15261 |
| 85-11960 | 85-12021 | 85-12094 | 85-12169 | 85-15265 |
| 85-11962 | 85-12022 | 85-12096 | 85-12170 | 85-15266 |
| 85-11963 | 85-12023 | 85-12097 | 85-12171 |          |
| 85-11964 | 85-12024 | 85-12101 | 85-12175 |          |
| 85-11966 | 85-12025 | 85-12103 | 85-12176 |          |
| 85-11967 | 85-12026 | 85-12104 | 85-12177 |          |
| 85-11968 | 85-12027 | 85-12105 | 85-12180 |          |
| 85-11969 | 85-12028 | 85-12106 | 85-12181 |          |
| 85-11970 | 85-12029 | 85-12109 | 85-12182 |          |
| 85-11971 | 85-12030 | 85-12110 | 85-15209 |          |
| 85-11972 | 85-12031 | 85-12111 | 85-15210 |          |
| 85-11973 | 85-12032 | 85-12112 | 85-15212 |          |
| 85-11974 | 85-12033 | 85-12113 | 85-15214 |          |
| 85-11976 | 85-12034 | 85-12115 | 85-15215 |          |
| 85-11977 | 85-12035 | 85-12117 | 85-15216 |          |
| 85-11978 | 85-12036 | 85-12118 | 85-15218 |          |
| 85-11979 | 85-12037 | 85-12119 | 85-15220 |          |
| 85-11980 | 85-12038 | 85-12120 | 85-15221 |          |
| 85-11983 | 85-12040 | 85-12126 | 85-15222 |          |
| 85-11984 | 85-12041 | 85-12127 | 85-15223 |          |
| 85-11985 | 85-12042 | 85-12128 | 85-15224 |          |
| 85-11986 | 85-12043 | 85-12129 | 85-15225 |          |
| 85-11987 | 85-12045 | 85-12130 | 85-15226 |          |
| 85-11988 | 85-12046 | 85-12131 | 85-15227 |          |
| 85-11989 | 85-12047 | 85-12132 | 85-15228 |          |
| 85-11990 | 85-12049 | 85-12133 | 85-15229 |          |
| 85-11991 | 85-12050 | 85-12134 | 85-15230 |          |
| 85-11993 | 85-12051 | 85-12135 | 85-15231 |          |
| 85-11994 | 85-12055 | 85-12137 | 85-15232 |          |
| 85-11995 | 85-12056 | 85-12138 | 85-15233 |          |
| 85-11996 | 85-12057 | 85-12141 | 85-15235 |          |
| 85-11997 | 85-12058 | 85-12145 | 85-15236 |          |
| 85-11999 | 85-12059 | 85-12147 | 85-15237 |          |
| 85-12000 | 85-12060 | 85-12148 | 85-15238 |          |
| 85-12001 | 85-12064 | 85-12149 | 85-15239 |          |
| 85-12002 | 85-12065 | 85-12150 | 85-15240 |          |
| 85-12003 | 85-12066 | 85-12152 | 85-15245 |          |
| 85-12004 | 85-12068 | 85-12153 | 85-15246 |          |
| 85-12006 | 85-12069 | 85-12154 | 85-15247 |          |
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In Re SRBA )  
 )  
Case No. 39576 )  
 )  
\_\_\_\_\_ )

NOTICE OF ISSUANCE OF  
SPECIAL MASTER'S  
RECOMMENDATION

Water Right(s): 85-11950  
(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:

|          |          |          |          |          |
|----------|----------|----------|----------|----------|
| 85-11950 | 85-12008 | 85-12071 | 85-12156 | 85-15249 |
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| 85-11954 | 85-12014 | 85-12076 | 85-12161 | 85-15254 |
| 85-11955 | 85-12015 | 85-12077 | 85-12162 | 85-15255 |
| 85-11956 | 85-12016 | 85-12078 | 85-12164 | 85-15256 |
| 85-11957 | 85-12017 | 85-12086 | 85-12165 | 85-15258 |
| 85-11958 | 85-12018 | 85-12089 | 85-12167 | 85-15260 |
| 85-11959 | 85-12020 | 85-12091 | 85-12168 | 85-15261 |
| 85-11960 | 85-12021 | 85-12094 | 85-12169 | 85-15265 |
| 85-11962 | 85-12022 | 85-12096 | 85-12170 | 85-15266 |
| 85-11963 | 85-12023 | 85-12097 | 85-12171 |          |
| 85-11964 | 85-12024 | 85-12101 | 85-12175 |          |
| 85-11966 | 85-12025 | 85-12103 | 85-12176 |          |
| 85-11967 | 85-12026 | 85-12104 | 85-12177 |          |
| 85-11968 | 85-12027 | 85-12105 | 85-12180 |          |
| 85-11969 | 85-12028 | 85-12106 | 85-12181 |          |
| 85-11970 | 85-12029 | 85-12109 | 85-12182 |          |
| 85-11971 | 85-12030 | 85-12110 | 85-15209 |          |
| 85-11972 | 85-12031 | 85-12111 | 85-15210 |          |
| 85-11973 | 85-12032 | 85-12112 | 85-15212 |          |
| 85-11974 | 85-12033 | 85-12113 | 85-15214 |          |
| 85-11976 | 85-12034 | 85-12115 | 85-15215 |          |
| 85-11977 | 85-12035 | 85-12117 | 85-15216 |          |
| 85-11978 | 85-12036 | 85-12118 | 85-15218 |          |
| 85-11979 | 85-12037 | 85-12119 | 85-15220 |          |
| 85-11980 | 85-12038 | 85-12120 | 85-15221 |          |
| 85-11983 | 85-12040 | 85-12126 | 85-15222 |          |
| 85-11984 | 85-12041 | 85-12127 | 85-15223 |          |
| 85-11985 | 85-12042 | 85-12128 | 85-15224 |          |
| 85-11986 | 85-12043 | 85-12129 | 85-15225 |          |
| 85-11987 | 85-12045 | 85-12130 | 85-15226 |          |
| 85-11988 | 85-12046 | 85-12131 | 85-15227 |          |
| 85-11989 | 85-12047 | 85-12132 | 85-15228 |          |
| 85-11990 | 85-12049 | 85-12133 | 85-15229 |          |
| 85-11991 | 85-12050 | 85-12134 | 85-15230 |          |
| 85-11993 | 85-12051 | 85-12135 | 85-15231 |          |
| 85-11994 | 85-12055 | 85-12137 | 85-15232 |          |
| 85-11995 | 85-12056 | 85-12138 | 85-15233 |          |
| 85-11996 | 85-12057 | 85-12141 | 85-15235 |          |
| 85-11997 | 85-12058 | 85-12145 | 85-15236 |          |
| 85-11999 | 85-12059 | 85-12147 | 85-15237 |          |
| 85-12000 | 85-12060 | 85-12148 | 85-15238 |          |
| 85-12001 | 85-12064 | 85-12149 | 85-15239 |          |
| 85-12002 | 85-12065 | 85-12150 | 85-15240 |          |
| 85-12003 | 85-12066 | 85-12152 | 85-15245 |          |
| 85-12004 | 85-12068 | 85-12153 | 85-15246 |          |
| 85-12006 | 85-12069 | 85-12154 | 85-15247 |          |
| 85-12007 | 85-12070 | 85-12155 | 85-15248 |          |

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

In Re SRBA )  
 )  
Case No. 39576 )  
 )  
PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 85-11983

JUL 16 2003

By \_\_\_\_\_ Clerk  
\_\_\_\_\_  
Deputy Clerk

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

SOURCE: NICHOLS CANYON CREEK TRIBUTARY: BIG CANYON CREEK

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: T35N R01E S07 NESESE (Instream Ending Point) Within Nez Perce County  
S18 SWNENE (Instream Beginning Point)

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Stockwater     | 01-01 TO 12-31 | 0.02 CFS |

PLACE OF USE: Stockwater Within Nez Perce County  
T35N R01E S07 SESE  
S18 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.

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

*Russell A. Olsen*  
SPECIAL MASTER

\_\_\_\_\_  
Roger Burdick  
Presiding Judge of the  
Snake River Basin Adjudication