

2003 OCT 14 AM 10:40

DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FIFTH JUDICIAL DISTRICT OF THE

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	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
_____	)	FOR WATER RIGHT 61-00308

I. FINDINGS OF FACT

A notice of claim was filed for this water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

An objection was filed on June 15, 1999, by United States of America, Bureau of Land Management. An *Amended Director's Report* was filed on December 28, 2000. An objection was filed to the *Amended Director's Report* by United States of America, Bureau of Land Management on January 23, 2001, an objection was also filed by Batruel Dairy on January 24, 2001. The parties filed a *Stipulation to Resolve Objections* in this subcase. The parties also filed a *Standard Form 5* on October 23, 2002. The Idaho Department of Water Resources was not a signature to the *Stipulation* or the *Standard Form 5*. On June 18, 2003, IDWR filed a *Notice of IDWR Concurrence in Basin 61 Subcase Settlements Submitted Without IDWR Signature*.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein and pursuant to the *Notice of IDWR Concurrence* and the *Standard Form 5*, IT IS RECOMMENDED that the elements for water right 61-00308 be decreed as set forth in the *Attached Recommendation for Partial Decree pursuant to I.R.C.P. 54(b)*.

DATED: October 14, 2003.



THOMAS R. CUSHMAN
Special Master
Snake River Basin Adjudication

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
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PLACE OF USE (continued)

USE OF THIS RIGHT WITH RIGHT NOS. 61-00293B, 61-00303B, 61-00304B, 61-04132, 61-10834, 61-11921 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 328 ACRES IN A SINGLE IRRIGATION SEASON.

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

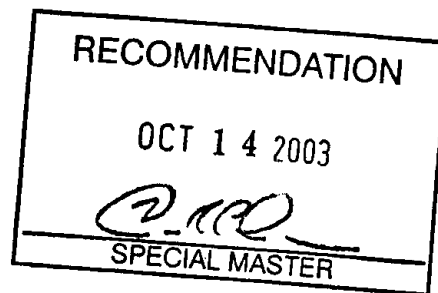
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

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.

Presiding Judge of the
Snake River Basin Adjudication



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In Re SRBA

Case No. 39576

CERTIFICATE OF MAILING

Water Right(s): 61-00308

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 October 14, 2003, with sufficient first-class postage prepaid to the following:

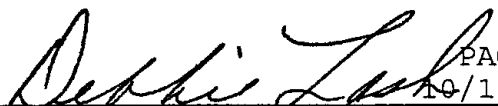
DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

BATRUEL DAIRY
MARY BATRUEL
PAUL BATRUEL

Represented by:
MATT J. HOWARD
ATTORNEY AT LAW
PO BOX 190012
BOISE, ID 83719
Phone: 208-333-0622

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

CERTIFICATE OF MAILING

 PAGE 1
10/14/03
DEBBIE LASH
Deputy Clerk

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TWIN FALLS CO., IDAHO
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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In Re SRBA)
)
Case No. 39576)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

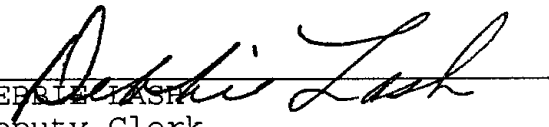
Water Right(s): 61-00308

On October 14, 2003, Special Master THOMAS R CUSHMAN 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 October 14, 2003.


DEBBIE LASH
Deputy Clerk