RECEIVED
NOV - 6 2003
Department of Water Resources

2003 NOV -5 PM 3:23
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 82-10841, *et al.***
	)	**(see list of 50 subcases attached)**
Case No. 39576	)	**(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 50 claims to the United States of America, Department of Interior, Bureau of Land Management, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho, 83709-1657, for .02 cfs from springs for year-'round stockwater use in Idaho County with a priority date of January 1, 1861, based on beneficial use. For each claim, the Director also noted: "This water right is also claimed based on federal law with an April 17, 1926, date of priority pursuant to an Executive Order signed the same date and known as Public Water Reserve 107."

On June 2, 1999, the State of Idaho filed *Objections* to priority date ("If this water right exists, the State Law based portion of this right should have a priority date no earlier than June 28, 1934.") and alleging that the water right should not exist.

On August 29, 2002, the United States and certain private parties filed a *Stipulation* in multiple subcases, including the above 50 subcases, and an ***Order Granting Withdrawal of Objections and Responses*** was entered on September 5, 2002. On April 21, 2003, an ***Order Dismissing State of Idaho Objections*** was entered based on the parties' *Stipulation to Resolve Objections*. On June 10, 2003, the United States filed a *Notice Regarding Priority Date* stating the claimed priority date should be April 17, 1926, and requesting an evidentiary hearing.

An I.C. §42-1411A hearing was held on September 25, 2003, for the United States to demonstrate a *prima facie* case of the existence of the water rights established under federal law (even though objections to the claims were filed). On the date of the hearing, the United States submitted an affidavit by Frederic W. Price (a BLM water rights specialist) who said the land surrounding the claims was unreserved federal public land as of April 17, 1926, the water sources were confirmed by field investigation and there is sufficient surface water at the sites for consumption by livestock.

Conclusions of Law

The United States of America is entitled to partial decrees adjudicating federal reserved water rights under the above 50 claims as described in the attached ***Special Master Recommendations for Partial Decrees for Water Rights***.

DATED November 5, 2003.

TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

2003 NOV -5 PM 3:23

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): 82-10841
	(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 November 05, 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
ROBBIN HALL
Deputy Clerk

Exhibit A

Subcase Nos:

82-10841
82-10842
82-10843
82-10844
82-10845
82-10846
82-10847
82-10848
82-10849
82-10850
82-10851
82-10852
82-10853
82-10854
82-10856
82-10857
82-10858
82-10859
82-10860
82-10861
82-10862
82-10863
82-10864
82-10866
82-10867
82-10868
82-10869
82-10870
82-10871
82-10872
82-10873
82-10874
82-10875
82-10876
82-10877
82-10878
82-10879
82-10880
82-10881
82-10882
82-10883
82-10884
82-10885
82-10886
82-10887
82-10888
82-10889
82-10890
82-10891
82-10892

2003 NOV -5 PM 3:23

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO

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): 82-10841 (SEE ATTACHED EXHIBIT A)

On November 05, 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 November 05, 2003.

Robbin Hall

ROBBIN HALL
Deputy Clerk

Exhibit A

Subcase Nos:

82-10841
82-10842
82-10843
82-10844
82-10845
82-10846
82-10847
82-10848
82-10849
82-10850
82-10851
82-10852
82-10853
82-10854
82-10856
82-10857
82-10858
82-10859
82-10860
82-10861
82-10862
82-10863
82-10864
82-10866
82-10867
82-10868
82-10869
82-10870
82-10871
82-10872
82-10873
82-10874
82-10875
82-10876
82-10877
82-10878
82-10879
82-10880
82-10881
82-10882
82-10883
82-10884
82-10885
82-10886
82-10887
82-10888
82-10889
82-10890
82-10891
82-10892

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
NOV - 5 2003
By _____ Clerk
_____ Deputy Clerk

In Re SRBA	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 82-10862

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

SOURCE: SPRING TRIBUTARY: LITTLE ELK CREEK

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 04/17/1926

THIS WATER RIGHT IS ISSUED BASED ON FEDERAL LAW WITH AN APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN EXECUTIVE ORDER SIGNED THE SAME DATE AND KNOWN AS PUBLIC WATER RESERVE 107.

POINT OF DIVERSION: T29N R08E S04 LOT 3 (NENENW) Within Idaho County

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 S04 LOT 3 (NENW)

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF 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.

_____

Presiding Judge of the
Snake River Basin Adjudication

RECOMMENDATION
NOV 5 2003