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Department of Water Resources

2003 NOV - 5 AM 11: 43

DISTRICT CLERK-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 84-11920, *et al.*  
Case No. 39576 ) (see list of 19 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 84)* on March 19, 1999. The Director recommended the above 19 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 and Clearwater Counties with priority dates of January 1, 1887, or November 18, 1895, 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 19 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 19 claims as described in the attached *Special Master Recommendations for Partial Decrees for Water Rights*.

DATED November 5, 2003.



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TERRENCE A. DOLAN

Special Master

Snake River Basin Adjudication

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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): 84-11920  
(SEE ATTACHED EXHIBIT A)

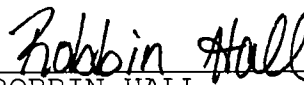
CERTIFICATE OF MAILING

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  
Deputy Clerk

CERTIFICATE OF MAILING

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11/05/03

Exhibit A

Subcase Nos:

84-11920  
84-11922  
84-11923  
84-11924  
84-11928  
84-11934  
84-11936  
84-11938  
84-11940  
84-11942  
84-11944  
84-11946  
84-11948  
84-11952  
84-11954  
84-11956  
84-12049  
84-12050  
84-12053

DAVID L. COLE - SRBA  
FALLS CO., IDAHO  
FALLS

In Re SRBA  
Case No. 39576

Water Right(s): 84-11920  
(SEE ATTACHED EXHIBIT A)

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84-11954  
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84-12049  
84-12050  
84-12053

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Water Right 84-11923

U.S. DIST. COURT - SIDA  
TWIN FALLS CO., IDAHO  
FILED

QUANTITY: 0.02 CFS

PRIORITY DATE: 04/17/1926

POINT OF DIVERSION: T34N R03E S08 NENWSE Within Idaho County

PLACE OF USE: Stockwater Within Idaho County  
T34N R03E S08 NWSE

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).

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

