2003 NOV -5 PM 12: 20
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 83-10266, *et al.***
	)	**(see list of 232 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 83)* on March 19, 1999. The Director recommended the above 232 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 Shoshone County with a priority date of January 1, 1907, 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 September 17, 1999, the Western Stockgrowers Association, Joyce Livestock Company, Jerry Hoagland, Pickett Ranch & Sheep Company, Michael and Gary Poulton, Jerry, Bruce, 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* in multiple subcases, including the above 232 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*

SCANNED
NOV 06 2003

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 232 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

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In Re SRBA)	CERTIFICATE OF MAILING
)	
Case No. 39576)	
)	Water Right(s): 83-10266
	(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

SCANNED

NOV 06 2003

Exhibit A

Subcase Nos:

83-10266	83-10372	83-10488	83-10596	83-10708
83-10268	83-10374	83-10490	83-10598	83-10710
83-10270	83-10376	83-10492	83-10600	83-10712
83-10272	83-10378	83-10494	83-10604	83-10714
83-10274	83-10380	83-10496	83-10606	83-10716
83-10276	83-10382	83-10498	83-10608	83-10718
83-10278	83-10384	83-10502	83-10610	83-10720
83-10280	83-10386	83-10506	83-10612	83-10722
83-10282	83-10388	83-10508	83-10614	83-10724
83-10284	83-10390	83-10510	83-10616	83-10726
83-10286	83-10392	83-10512	83-10618	83-10728
83-10288	83-10394	83-10514	83-10620	83-10730
83-10290	83-10396	83-10516	83-10622	83-10732
83-10292	83-10398	83-10518	83-10624	83-10734
83-10294	83-10400	83-10520	83-10626	83-10736
83-10296	83-10402	83-10522	83-10628	83-10738
83-10298	83-10404	83-10524	83-10630	83-10740
83-10300	83-10406	83-10526	83-10632	83-10742
83-10304	83-10408	83-10528	83-10634	83-10744
83-10306	83-10410	83-10530	83-10638	83-10746
83-10308	83-10412	83-10532	83-10640	83-10748
83-10310	83-10414	83-10534	83-10642	83-10750
83-10312	83-10416	83-10536	83-10644	83-10752
83-10314	83-10418	83-10538	83-10646	83-10754
83-10316	83-10420	83-10540	83-10648	83-10756
83-10318	83-10422	83-10542	83-10650	83-10758
83-10320	83-10424	83-10544	83-10652	83-10760
83-10322	83-10426	83-10546	83-10656	83-10762
83-10324	83-10428	83-10548	83-10658	83-10764
83-10326	83-10430	83-10550	83-10662	83-10766
83-10328	83-10432	83-10552	83-10664	83-10768
83-10330	83-10434	83-10554	83-10666	83-10770
83-10332	83-10436	83-10556	83-10668	83-11879
83-10334	83-10438	83-10558	83-10670	
83-10336	83-10440	83-10560	83-10672	
83-10338	83-10442	83-10562	83-10674	
83-10340	83-10448	83-10564	83-10676	
83-10342	83-10452	83-10566	83-10680	
83-10344	83-10454	83-10568	83-10682	
83-10346	83-10458	83-10570	83-10684	
83-10348	83-10460	83-10572	83-10686	
83-10350	83-10462	83-10574	83-10688	
83-10352	83-10464	83-10576	83-10690	
83-10354	83-10466	83-10578	83-10694	
83-10356	83-10472	83-10580	83-10696	
83-10358	83-10474	83-10584	83-10698	
83-10360	83-10476	83-10586	83-10700	
83-10364	83-10482	83-10590	83-10702	
83-10366	83-10484	83-10592	83-10704	
83-10368	83-10486	83-10594	83-10706	

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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): 83-10266 (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

SCANNED
NOV 06 2003

Exhibit A

Subcase Nos:

83-10266	83-10372	83-10488	83-10596	83-10708
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83-10366	83-10484	83-10592	83-10704	
83-10368	83-10486	83-10594	83-10706	

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 83-10424

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

SOURCE: SPRING TRIBUTARY: LUND 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: T43N R04E S22 SWSWSE Within Shoshone 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 Shoshone County
T43N R04E S22 SWSE

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