

2003 NOV -6 AM 9:57

Water Right 82-10688

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Department of Water Resources

2003 NOV -6 AM 9:57

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

Case No. 39576

) Subcases 82-10675, *et al.*
) (see list of 49 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 82)* on March 19, 1999. The Director recommended the above 49 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 49 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 49 claims as described in the attached *Special Master Recommendations for Partial Decrees for Water Rights*.

DATED November 6, 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): 82-10675
(SEE ATTACHED EXHIBIT A)

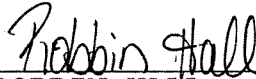
CERTIFICATE OF MAILING

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 06, 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
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Exhibit A

Subcase Nos:

82-10675
82-10676
82-10679
82-10680
82-10681
82-10682
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In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 82-10675
(SEE ATTACHED EXHIBIT A)

On November 06, 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 06, 2003.

Robbin Hall
ROBBIN HALL
Deputy Clerk

Exhibit A

Subcase Nos:

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