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Department of Water Resources

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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

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SPECIAL MASTER'S REPORT
FINDINGS OF FACTS AND
CONCLUSION OF LAW
FOR WATER RIGHT 51-12013

FINDINGS OF FACT

A *Special Master's Report and Recommendation* was issued on November 21, 2002, for the above listed subcase. A *Partial Decree* was issued on January 8, 2003. The United States Bureau of Land Management filed a *Motion to Set Aside Partial Decree and Refer Subcases to the Special Master* on August 13, 2003. The *Motion* states "Through oversight or omission, neither the BLM's objections, nor the State of Idaho's objections, were resolved and dismissed prior to the partial decrees being filed."

CONCLUSIONS OF LAW

After further review of the file and record herein, IT IS RECOMMENDED that the *Motion* be **granted**. IT IS FURTHER RECOMMENDED that pursuant to the *Standard Form 5* filed on October 20, 2003, an amended partial decree be issued with the elements as set forth in the attached *Amended Recommendation for Amended Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated November 21, 2003.


THOMAS R CUSHMAN
SPECIAL MASTER
SNAKE RIVER BASIN ADJUDICATION

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

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In Re SRBA)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 51-12013

DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO
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NAME AND ADDRESS: USDI BLM
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657

SOURCE: POISON CREEK TRIBUTARY: JARBIDGE RIVER

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 06/28/1934

POINT OF DIVERSION: T13S R08E S32 SWNESE (Instream Ending Point) Within Owyhee County
T14S R09E S35 SENESE (Instream Beginning Point)

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 Owyhee County

T13S R08E S32	NESW	NESE
	NWSE	
S33	NESW	NWSW
	SESW	SWSE
T14S R08E S03 LOT 3	(NENW)	LOT 4 (NWNW)
	SENW	NESW
	NWSE	SWSE
	SESE	
S04 LOT 1	(NENE)	LOT 2 (NWNW)
S10	NENE	NWNE
	SWNE	SENE
	NESE	SESE
S11	SWSW	
S14	NWNW	SWNW
S15	SENE	NESE
	SESE	
S22	NENE	
S23	NENE	SWNE
	SENE	NENW
	NWNW	SENW
S24	NWNW	SWNW
	SENW	NESW
	NWSW	SESW
	NWSE	SWSE
S25	NENE	NWNE
	SENE	
R09E S29	NWSW	SWSW
S30	SWNE	SENE
LOT 1	(NENW)	LOT 2 (SENW)
	NESE	
S32	NWNE	SWNE
	SENE	NENW
	NWNW	NESE
S33	SWNW	SENW
	NESW	NWSW
	NESE	NWSE

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SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

Department of Water Resources

PLACE OF USE (continued)

	SWSE	SESE
S34	NESW	NWSW
	SWSW	SESW
	NESE	NWSE
	SWSE	
S35	NESW	NWSW
	SWSW	SESW
	NESE	NWSE

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

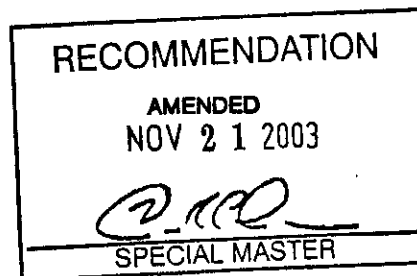
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

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.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



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DISTRICT CLERK
TWIN FALLS, 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: See Attached Exhibit A
)
Case No. 39576)
) CERTIFICATE OF MAILING
)
_____)

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT AND AMENDED RECOMMENDATIONS FOR AMENDED PARTIAL DECREES and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND AMENDED RECOMMENDATIONS were mailed November 21, 2003, with sufficient first-class postage to the following:

Director of IDWR
P O Box 83720
Boise, Idaho 83720-0098

United States of America
Department of Justice
550 West Fort Street, MSC 033
Boise, Idaho 83724

State of Idaho
Office of the Attorney General
P O Box 44449
Boise, Idaho 83711-4449

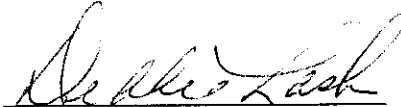

Deputy Clerk

EXHIBIT A

Subcase Nos:

51-11969
51-11971
51-11972
51-11974
51-11975
51-11976
51-12013
51-12079
51-12349
51-12350
51-12372
51-12374
51-12433
51-12434
51-12436
51-12442
51-12443
51-12448
51-12502

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(Subcase list: 51CUSHMAN)
11/21/03

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DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
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STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

) SUBCASE: See Attached Exhibit A
)

Case No. 39576

) NOTICE OF ISSUANCE
)
)

On November 21, 2003, special Master THOMAS R. CUSHMAN issued a **SPECIAL MASTER'S REPORT AND AMENDED RECOMMENDATION** for the above subcase(s) pursuant to **SRBA Administrative Order 1 (AOI)**, 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 by the 28th day of the month following the publication of the filing of the **Special Master's Report and Amended Recommendation** in the Docket Sheet (**AOI**, Section 13a).

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the **Special Master's Report and Amended Recommendation** shall constitute a waiver of the right to challenge it before the Presiding Judge.

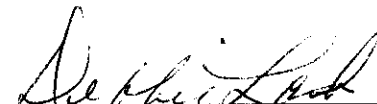

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