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Department of Water Resources

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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

	)	SPECIAL MASTER'S REPORT
	)	
In Re SRBA	)	FINDINGS OF FACTS AND
	)	CONCLUSION OF LAW
	)	
Case No. 39576	)	FOR WATER RIGHT 51-12433
_____	)	

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

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

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 51-12433

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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 Department of Water Resources

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: T15S R09E S01 LOT 2 (NWNWNE) (Instream Ending Point) Within Owyhee County
S35 SENENE (Instream Beginning Point)

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE: STOCKWATER PERIOD OF USE: 01-01 TO 12-31 QUANTITY: 0.02 CFS

PLACE OF USE: Stockwater Within Owyhee County
T15S R09E S01 LOT 2 (NWNE) SWNE
SENW NESW
SESW
S12 SWNE NENW
SENW NESE
NWSE
S13 NESE SWSE
SESE
S24 NWNE SWNE
NESW SWSW
SESW NWSE
S25 NWNW SWNW
S26 SENE NESE
SESE
S35 NENE
R10E S07 LOT 3 (NWSW) LOT 4 (SWSW)
S18 NENW LOT 1 (NWNW)
LOT 2 (SWNW) SENW
LOT 3 (NWSW)

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).

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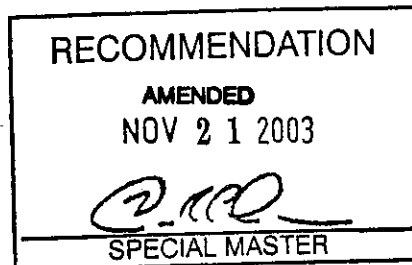
SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

Department of Water Resources

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

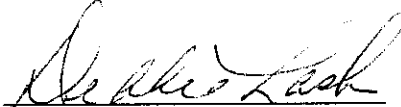

Deputy Clerk

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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DISTRICT: 1-572
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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

) 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 (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 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 (**AO1**, 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.

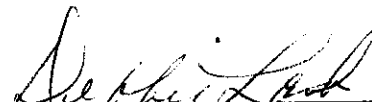

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(Subcase list: 51CUSHMAN)
11/21/03