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Department of Water Resources

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED

2004 JAN 15 AM 9 36

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

) For Water Right 63-23126
)
)
)
)
)
)

ORDER OF REFERENCE TO SPECIAL
MASTER THOMAS CUSHMAN

On January 12, 2004, this Court received correspondence regarding the above-captioned water right claim(s). A copy of the correspondence is attached to this **Order**. The original of the correspondence was file stamped, docketed as received, and lodged in the subcase file(s). Where the water right claim(s) was/were previously uncontested, a subcase file was created for the correspondence. Where a partial decree(s) was/were previously entered for the water right claim(s), the partial decree(s) was/were also included in the subcase file.

THE FOLLOWING ARE HEREBY ORDERED:

1. That Thomas Cushman is appointed Special Master to preside over the above-captioned water right claim(s) for the following purposes:

a. To determine the intended purpose of the correspondence and the legal significance of the correspondence, if any. For example, the Special Master may determine whether the correspondence constitutes a motion to correct a clerical error pursuant to I.R.C.P. 60(a), or a motion to set aside a partial decree pursuant to I.R.C.P. 60(b), etc.;

b. To determine whether the correspondence complies with **SRBA Administrative Order 1 (AOI)** and the Idaho Rules of Civil Procedure or whether additional time should be granted to allow the party to file an appropriate motion with the Special Master and/or to obtain counsel in the matter; whether the matter should be dismissed on its face; or to

determine whether the matter would be more appropriately processed administratively through the Idaho Department of Water Resources;

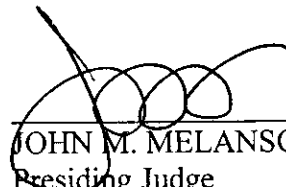
c. If the correspondence is ultimately deemed a sufficient motion, or in the event a new motion is filed in compliance with the applicable rule(s), the Special Master shall conduct all proceedings necessary to issue a recommendation as to the underlying merits. For example, if the Special Master concludes a partial decree should be set aside or amended, the recommendation should not only include that the partial decree be amended or set aside, but should also include how the elements of the water right should be partially decreed.

2. The original of this **Order** shall be placed in the subcase file and the file transferred to the Special Master for proceedings consistent with this **Order**.

3. The Special Master shall issue a **Special Master's Report and Recommendation** on the matter consistent with **AOI**.

IT IS SO ORDERED.

DATED: JANUARY 14, 2004



JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF
REFERENCE TO SPECIAL MASTER THOMAS CUSHMAN was mailed on January
15, 2004, with sufficient first-class postage to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

J A MARCHBANKS
VELMA MARCHBANKS
19664 PURPLE SAGE RD
CALDWELL, ID 83605
Phone: 208-459-2783

A handwritten signature in cursive script, reading "Julie Murphy", is written over a horizontal line. The signature is in dark ink and is positioned to the right of the printed text "Deputy Clerk".