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Department of Water Resources

2004 JAN 12 PM 4: 21

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 47-16433, *et al.*  
) (see list of 26 subcases attached)  
) (USDA/FS)  
)  
) 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 12 (IDWR Basin 47)* on August 14, 1998. The Director recommended the above 26 claims to the United States of America, Department of Agriculture, Forest Service ("USDA/FS"), 550 W. Fort Street, MSC 033, Boise, Idaho, 83724, for *de minimis* amounts of water (.02 cfs) from various springs, creeks and a gulch for stockwater use in Cassia County for various periods of use and with priority dates of May 1 or June 1, 1875, all based on beneficial use.

On April 28, 1999, Scott Bedke filed a motion to file late objections in 15 of the above 26 subcases alleging the water rights should not exist; on June 4, 1999, he filed an amended motion to file late objections adding the remaining 11 subcases. Bruce and Jared Bedke filed motions to file late objections in the 26 subcases on June 4, 1999, alleging the water rights should not exist. On June 7, 1999, Michael and Gary Poulton filed motions to file late objections in all 26 subcases. On August 6, 1999, the Special Master entered an *Order Partially Staying Subcases* until the remaining "*de maximus*" stockwater claims in Basin 47 are reported by IDWR.

On August 29, 2002, the USDA/FS and all the private parties, except Bruce and Jared Bedke, signed a *Stipulation* resolving their conflicting stockwater claims and agreeing that the private parties would receive senior stockwater rights:

For claims on lands administered by the Forest Service, the United States shall receive a water right with a priority date which is the later of a) the claimed priority date or b) the date of the federal reservation of such lands. On Forest Service lands, the federal reservation date for claims on what is presently the Sawtooth National Forest is June 12, 1905. . . . The overlapping or competing claims of the Private Parties shall have a priority date that is one-day senior to the United States' priority date, unless the Private Parties can provide a patent or deed for their "base property," . . . that precedes this date, in which case the Private Parties shall receive a priority date that is this more senior date.

*Stipulation*, at 4.

On June 17, 2003, Scott Bedke and the Poultons filed a *Notice of Withdrawal of Motions to File Late Objections* and on June 20, 2003, the Special Master entered an *Order Granting Motion to Withdraw Motions to File Late Objections*.

On July 3, 2003, the Special Master entered an *Order Vacating Stays and Order Denying Motions to File Late Objections* denying Bruce and Jared Bedke's motions to file late objections. Finally, on January 7, 2004, the Special Master entered an *Order Denying [Bruce and Jared Bedke's] Motion to Reconsider*.

#### Conclusions of Law

The USDA/FS is entitled to partial decrees adjudicating water rights for the above 26 claims as recommended by the IDWR Director, subject to the parties' *Stipulation*, and as described in the attached *Special Master Recommendations for Partial Decrees for Water Rights*.

DATED January 12, 2004.

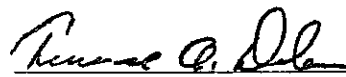
  
\_\_\_\_\_  
TERRENCE A. DOLAN  
Special Master  
Snake River Basin Adjudication

Exhibit A

Subcase Nos:

47-16433  
47-16434  
47-16435  
47-16437  
47-16438  
47-16440  
47-16441  
47-16442  
47-16443  
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47-16448  
47-16449  
47-16458  
47-16459  
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47-16463  
47-16464  
47-16465  
47-16466  
47-16470  
47-16471  
47-16474

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In Re SRBA )  
 )  
Case No. 39576 )  
\_\_\_\_\_ )

CERTIFICATE OF MAILING

Water Right(s): 47-16433  
(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 January 12, 2004, with sufficient first-class postage prepaid to the following:

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

GARY R POULTON  
MICHAEL A POULTON  
SCOTT C. BEDKE  
Represented by:  
TRAVIS L THOMPSON  
233 - 2ND ST N, STE D  
TWIN FALLS, ID 83301  
Phone: 208-733-0700

USDA FOREST SERVICE  
Represented by:  
US DEPARTMENT OF JUSTICE  
ENVIRONMENT & NATL' RESOURCES  
550 WEST FORT STREET, MSC 033  
BOISE, ID 83724

CERTIFICATE OF MAILING

PAGE 1  
01/12/04

BRUCE BEDKE  
JARED BEDKE  
42 E BASIN RD  
OAKLEY, ID 83346  
Phone: 208-862-3679

  
\_\_\_\_\_  
ROBBIN HALL  
Deputy Clerk

2004 JAN 12 PM 4: 21

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

In Re SRBA )  
Case No. 39576 )  
\_\_\_\_\_ )

NOTICE OF ISSUANCE OF  
SPECIAL MASTER'S  
RECOMMENDATION

Water Right(s): 47-16433  
(SEE ATTACHED EXHIBIT A)

On January 12, 2004, 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 January 12, 2004.

  
\_\_\_\_\_  
ROBBIN HALL  
Deputy Clerk

Exhibit A

Subcase Nos:

47-16433  
47-16434  
47-16435  
47-16437  
47-16438  
47-16440  
47-16441  
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47-16470  
47-16471  
47-16474

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 )  
                  ) PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  ) Water Right 47-16466

NAME AND ADDRESS: USDA FOREST SERVICE  
550 W FORT ST, MSC 033  
BOISE, ID 83724

SOURCE: WHITEY DAVIS SPRING TRIBUTARY: SINKS

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 06/12/1905

POINT OF DIVERSION: T16S R19E S33 NWNE Within Cassia County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Stockwater     | 05-01 TO 11-30 | 0.02 CFS |

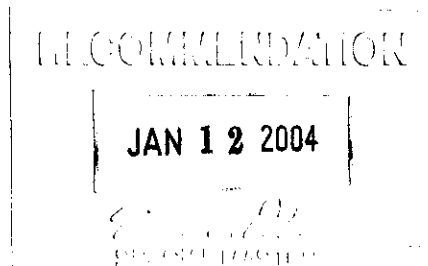
PLACE OF USE: Stockwater Within Cassia County  
T16S R19E S33 NWNE

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