

**Case No. 39576**

**AMENDED SPECIAL MASTER'S  
REPORT**

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

**FOR WATER RIGHTS: (SEE ATTACHED EXHIBIT A BASIN 77)**

## I. FINDINGS OF FACT

A notice of claim was filed for the above listed water rights pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of these water rights.

On April 24, 2003 a *Special Master's Report and Recommendation* was issued for the above-listed water rights. On April 24, 2003, an *Order Withdrawing the Special Master's Report and Recommendation* was issued.

On September 17, 1999, an objection was filed to the above listed water rights by Pickett Ranch & Sheep Co, Western Stockgrowers Assoc., Joe Tugaw, Michael Poulton, Gary Poulton, Karl Bedke, Jared Bedke, Scott Bedke, Bruce Bedke, Jerry Hoagland and Joyce Livestock Company. The State of Idaho also filed an objection on June 2, 1999. On August 29, 2001, the parties filed a *Stipulation and Joint Motion for Order Approving Stipulation, Notice of Withdrawal of Objections and Responses* filed by Semanko for Bruce Bedke et al, *Notice of Withdrawal of Objections and Responses* filed by Semanko for Western Stockgrowers et al. On September 18, 2002, an *Order Dismissing Objections and Responses with Prejudice; and Order Dismissing Parties* was issued. On March 11, 2003, the State of Idaho filed a *Stipulation to Resolve Objections*. An *Order Dismissing Objections and Dismissing the State of Idaho as a Party* was issued on June 30, 2003.

On May 15, 2003, the United States filed a *Notice Regarding Priority Date*. The Notice states the claims are in-stream livestock-watering state-law based beneficial-use water right claims.

## II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Notice Regarding Priority Date*, IT IS RECOMMENDED that the water rights listed on Exhibit A, be decreed with the elements as set forth in the attached *Amended Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

DATED March 10, 2004.



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THOMAS R. CUSHMAN  
Special Master  
Snake River Basin Adjudication

EXHIBIT A BASIN 77 AMENDED MASTER REPORT

Subcase Nos:

|          |          |
|----------|----------|
| 77-10997 | 77-11465 |
| 77-11002 | 77-11466 |
| 77-11003 | 77-11502 |
| 77-11004 | 77-11503 |
| 77-11005 | 77-11505 |
| 77-11006 | 77-11506 |
| 77-11007 | 77-11507 |
| 77-11008 | 77-11508 |
| 77-11009 | 77-11510 |
| 77-11010 |          |
| 77-11012 |          |
| 77-11013 |          |
| 77-11014 |          |
| 77-11015 |          |
| 77-11016 |          |
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| 77-11082 |          |
| 77-11083 |          |
| 77-11456 |          |
| 77-11457 |          |
| 77-11458 |          |
| 77-11462 |          |

(Subcase list: LBNOTICE77)  
3/10/04

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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CERTIFICATE OF MAILING

Water Right(s): 77-10997  
(SEE ATTACHED EXHIBIT A)

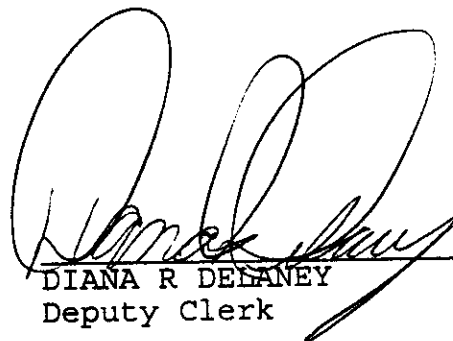
CERTIFICATE OF MAILING

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 March 10, 2004, 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

  
\_\_\_\_\_  
DIANA R DELANEY  
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1  
03/10/04

EXHIBIT A BASIN 77 AMENDED MASTER REPORT

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(Subcase list: LBNOTICE77)  
3/10/04

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): 77-10997  
(SEE ATTACHED EXHIBIT A)

On March 10, 2004, Special Master THOMAS R CUSHMAN  
issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s)  
pursuant to SRBA Administrative Order 1 (A01), 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 March 10, 2004.

  
\_\_\_\_\_  
DIANA R DELANEY  
Deputy Clerk

# EXHIBIT A BASIN 77 AMENDED MASTER REPORT

## Subcase Nos:

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(Subcase list: LBNOTICE77)  
3/10/04

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 77-11083

NAME AND ADDRESS: USDI BLM  
IDAHO STATE OFFICE  
1387 S VINNELL WAY  
BOISE, ID 83709-1657

SOURCE: UNNAMED LAKE TRIBUTARY: MAXWELL CREEK

QUANTITY: 14.00 AFY

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

PRIORITY DATE: 06/28/1934

POINT OF DIVERSION: T24N R05E S28 SESWSE Within Idaho County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE          | PERIOD OF USE  | QUANTITY  |
|-------------------------------|-------------------------|----------------|-----------|
|                               | Stockwater Storage      | 01-01 TO 12-31 | 14.00 AFY |
|                               | Stockwater from Storage | 01-01 TO 12-31 | 14.00 AFY |

|               |                         |      |                     |
|---------------|-------------------------|------|---------------------|
| PLACE OF USE: | Stockwater Storage      |      | Within Idaho County |
|               | T24N R05E S28           | SWSE |                     |
|               | Stockwater from Storage |      | Within Idaho County |
|               | T24N R05E S28           | SWSE |                     |

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.

RECOMMENDATION

AMENDED

MAR - 9 2004

  
SPECIAL MASTER

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