

2004 MAR 10 PM 2 48

Case No. 39576

SPECIAL MASTER'S REPORT

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

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 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 *Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

DATED March 10, 2004.


THOMAS R. CUSHMAN
Special Master
Snake River Basin Adjudication

EXHIBIT A MASTER REPORT

Subcase Nos:

79-10985	79-11065	79-11155	79-11247	79-11332	79-11441
79-10989	79-11067	79-11156	79-11248	79-11334	79-11442
79-10991	79-11070	79-11157	79-11249	79-11337	79-11444
79-10992	79-11072	79-11158	79-11250	79-11339	79-11445
79-10993	79-11073	79-11160	79-11256	79-11341	79-11447
79-10994	79-11074	79-11164	79-11257	79-11345	79-11448
79-10995	79-11075	79-11165	79-11259	79-11348	79-11449
79-10996	79-11076	79-11167	79-11260	79-11351	79-11450
79-10997	79-11077	79-11168	79-11261	79-11352	79-11452
79-11000	79-11078	79-11169	79-11262	79-11356	79-11455
79-11002	79-11079	79-11170	79-11263	79-11357	79-11456
79-11003	79-11080	79-11172	79-11265	79-11358	79-11458
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79-11014	79-11089	79-11187	79-11273	79-11370	79-11471
79-11015	79-11090	79-11188	79-11274	79-11372	79-11473
79-11016	79-11091	79-11189	79-11275	79-11373	79-11475
79-11017	79-11092	79-11190	79-11276	79-11374	79-11476
79-11018	79-11093	79-11191	79-11278	79-11376	79-11477
79-11019	79-11094	79-11193	79-11279	79-11377	79-11480
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79-11054	79-11150	79-11241	79-11323	79-11430	79-11511
79-11061	79-11151	79-11243	79-11325	79-11432	79-11516
79-11062	79-11152	79-11244	79-11326	79-11434	79-11517
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79-11064	79-11154	79-11246	79-11331	79-11439	79-11523

(Subcase list: 79ST/SEM)
3/10/04

EXHIBIT A MASTER REPORT

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(Subcase list: 79ST/SEM)
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): 79-10985
(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 (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 March 10, 2004.



DIANA R DELANEY
Deputy Clerk

EXHIBIT A MASTER REPORT

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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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 79-10985
(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

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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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 79-11188

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

SOURCE: WAPSHILLA CREEK TRIBUTARY: SALMON 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: T30N R03W S18 LOT 2 (SWNNWN) (Instream Beginning Point) Within Nez Perce County
LOT 2 (SWNNWN) (Instream Ending Point)

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

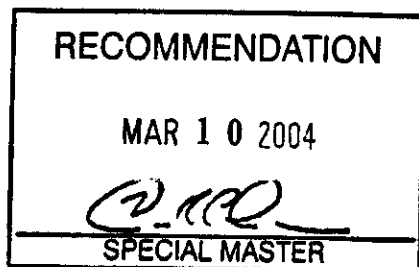
PLACE OF USE: Stockwater Within Nez Perce County
T30N R03W S18 LOT 2 (NWNW)

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