

2004 MAR 12 AM 10:09

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     | ) | SPECIAL MASTER'S REPORT       |
|                | ) |                               |
| Case No. 39576 | ) | FINDINGS OF FACT AND          |
|                | ) | CONCLUSIONS OF LAW            |
|                | ) |                               |
|                | ) | FOR WATER RIGHTS (SEE         |
|                | ) | ATTACHED EXHIBIT A, BASIN 78) |

**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. 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 12, 2004.

  
THOMAS R. CUSHMAN  
Special Master  
Snake River Basin Adjudication

Subcase Nos:

|          |          |          |
|----------|----------|----------|
| 78-10779 | 78-10849 | 78-12023 |
| 78-10780 | 78-10850 | 78-12026 |
| 78-10784 | 78-10851 | 78-12028 |
| 78-10785 | 78-10852 | 78-12029 |
| 78-10792 | 78-10853 | 78-12032 |
| 78-10793 | 78-10854 |          |
| 78-10794 | 78-10855 |          |
| 78-10795 | 78-10857 |          |
| 78-10797 | 78-10858 |          |
| 78-10798 | 78-10859 |          |
| 78-10799 | 78-10862 |          |
| 78-10800 | 78-10863 |          |
| 78-10801 | 78-10864 |          |
| 78-10802 | 78-10865 |          |
| 78-10803 | 78-10866 |          |
| 78-10804 | 78-10867 |          |
| 78-10805 | 78-10868 |          |
| 78-10806 | 78-10869 |          |
| 78-10807 | 78-10870 |          |
| 78-10809 | 78-10871 |          |
| 78-10810 | 78-10872 |          |
| 78-10811 | 78-10873 |          |
| 78-10812 | 78-10874 |          |
| 78-10813 | 78-10876 |          |
| 78-10814 | 78-10878 |          |
| 78-10815 | 78-10879 |          |
| 78-10816 | 78-10880 |          |
| 78-10817 | 78-10881 |          |
| 78-10818 | 78-10882 |          |
| 78-10819 | 78-10883 |          |
| 78-10820 | 78-10885 |          |
| 78-10822 | 78-10886 |          |
| 78-10823 | 78-10887 |          |
| 78-10824 | 78-10889 |          |
| 78-10825 | 78-10890 |          |
| 78-10827 | 78-10891 |          |
| 78-10828 | 78-10892 |          |
| 78-10829 | 78-10893 |          |
| 78-10831 | 78-10894 |          |
| 78-10834 | 78-10895 |          |
| 78-10835 | 78-10896 |          |
| 78-10839 | 78-10897 |          |
| 78-10840 | 78-10898 |          |
| 78-10841 | 78-10899 |          |
| 78-10842 | 78-10901 |          |
| 78-10843 | 78-10902 |          |
| 78-10844 | 78-10905 |          |
| 78-10845 | 78-11093 |          |
| 78-10846 | 78-11094 |          |
| 78-10848 | 78-12021 |          |

(Subcase list: LBNOTICE78)  
3/09/04

7:12 AM 03/12/04

FILED  
DEBBIE LASH  
DEPUTY CLERK

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): 78-10779  
(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 12, 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

  
DEBBIE LASH  
Deputy Clerk

MAR 12 10:14

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): 78-10779  
(SEE ATTACHED EXHIBIT A)

On March 12, 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 12, 2004.

  
\_\_\_\_\_  
DEBBIE LASH  
Deputy Clerk

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 78-10844

2004 MAR 12 AM 10:12

DISTRICT COURT - SRBA  
TWIN FALLS CO, IDAHO  
FILED *[Signature]*

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

SOURCE: DENNY CREEK TRIBUTARY: LITTLE 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: T23N R01E S33 NWNENE (Instream Ending Point) Within Idaho County  
SENENE (Instream Beginning Point)

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Stockwater     | 01-01 TO 12-31 | 0.02 CFS |

PLACE OF USE: Stockwater Within Idaho County  
T23N R01E S33 NENE

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

RECOMMENDATION

MAR 12 2004

*[Signature]*  
SPECIAL MASTER