

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

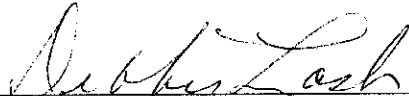
Water Right(s): 78-10779
(SEE ATTACHED EXHIBIT A)

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

2007 MAR 12 AM 10:12

In Re SRBA)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Case No. 39576)
Water Right 78-10862

DISSENTING OPINION
TWIN FALLS CO. IDAHO
FILED

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

SOURCE: RATTLESNAKE CREEK, NORTH FORK TRIBUTARY: RATTLESNAKE CREEK

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 S35 SESEW (Instream Ending Point) Within Idaho County
SENESE (Instream Beginning 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 Idaho County
	T23N R01E S35	SESW NESE SWSE SESE

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

