

2004 MAR 12 AM 9:17

FILED
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	)	AMENDED SPECIAL
	)	MASTER'S REPORT
	)	
	)	FINDINGS OF FACT AND
Case No. 39576	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHTS (SEE EXHIBIT
	)	A BASIN 69) WATER RIGHT 69-10473
	)	SF5 FILED, and DISALLOWED
	)	WATER RIGHT 69-10678

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 On April 23, 2003 a *Special Master's Report and Recommendation* was issued for the water rights listed on Exhibit A. 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)*.

IT IS FURTHER RECOMMENDED that pursuant to the *Standard Form 5*, water right 69-10473 be **decreed** with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)* and water right 69-10678 be **decreed** as **disallowed**.

DATED March 12, 2004.



THOMAS R. CUSHMAN
Special Master
Snake River Basin Adjudication

EXHIBIT A BASIN 69 AMENDED MASTER REPORT

Subcase Nos:

69-10412	69-10494	69-10638
69-10414	69-10495	69-10639
69-10429	69-10496	69-10647
69-10430	69-10497	69-10648
69-10431	69-10498	69-10649
69-10432	69-10501	69-10650
69-10433	69-10502	69-10657
69-10434	69-10503	69-10658
69-10435	69-10504	69-10659
69-10436	69-10505	69-10660
69-10437	69-10506	69-10663
69-10438	69-10508	69-10684
69-10439	69-10509	69-10686
69-10441	69-10510	69-10687
69-10443	69-10511	69-10688
69-10444	69-10512	69-10689
69-10445	69-10513	69-10691
69-10446	69-10514	69-10692
69-10447	69-10515	69-10694
69-10448	69-10516	69-10695
69-10450	69-10517	69-10696
69-10451	69-10518	69-10697
69-10452	69-10519	69-10698
69-10453	69-10520	69-10701
69-10454	69-10521	69-10713
69-10455	69-10522	69-10715
69-10456	69-10523	69-10716
69-10457	69-10524	69-10717
69-10458	69-10525	69-10719
69-10459	69-10526	69-10721
69-10460	69-10527	69-10722
69-10461	69-10528	69-10724
69-10462	69-10541	69-10725
69-10463	69-10546	69-10726
69-10464	69-10547	69-10727
69-10465	69-10548	69-10728
69-10466	69-10549	69-10730
69-10474	69-10608	69-10733
69-10476	69-10610	69-10736
69-10477	69-10616	69-10737
69-10484	69-10617	69-10738
69-10485	69-10618	69-10742
69-10486	69-10620	69-10746
69-10487	69-10629	69-10747
69-10488	69-10630	69-10750
69-10489	69-10631	69-10751
69-10490	69-10633	69-11464
69-10491	69-10634	
69-10492	69-10636	
69-10493	69-10637	

(Subcase list: LBNOTICE69)

3/10/04

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CLERK OF DISTRICT COURT
TWIN FALLS CO., IDAHO
FILED *EL*

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): 69-10412
(SEE ATTACHED EXHIBIT A)

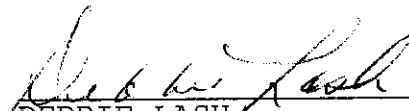
CERTIFICATE OF MAILING

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

CERTIFICATE OF MAILING

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DEBBIE LASH
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In Re SRBA)
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_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 69-10412
(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

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PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 69-10412

FILED

QUANTITY: 0.02 CFS

PRIORITY DATE: 06/28/1934

PLACE OF USE: Stockwater Within Washington County
T17N R05W S32 NESW

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
AMENDED

MAR 12 2004

E. P.
SPECIAL MASTER