

2004 MAR 22 AM 11 36

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	)	Subcase 86-10807
	)	(USDI / BLM)
Case No. 39576	)	
	)	SPECIAL MASTER REPORT
_____	)	

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Director's Report for Domestic and Stockwater, Reporting Area 22 (IDWR Basin 86)* on March 19, 1999. The Director recommended claim 86-10807 to the United States of America, Department of Interior, Bureau of Land Management, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho, 83709, for .02 cfs from the Clearwater River for year-'round stockwater use in Nez Perce County with a priority date of November 8, 1895, based on beneficial use.

The State of Idaho filed an *Objection* on June 2, 1999, objecting to priority date and alleging the water right should not exist. The United States filed an *Objection* on September 17, 1999, objecting to points of diversion. That same date, the Western Stockgrowers Association, Joyce Livestock Company, Jerry Hoagland, Pickett Ranch & Sheep Company, Michael and Gary Poulton, Jerry, Bruce, Karl and Scott Bedke and Joe Tugaw ("private parties") filed *Objections* alleging the water rights should not exist.

On August 29, 2002, the United States and the private parties filed a *Stipulation* in multiple subcases, including 86-10807, and an *Order Granting Withdrawal of Objections and Responses* was entered on September 5, 2002. On April 21, 2003, an *Order Dismissing State of Idaho Objections* was entered based on the parties' *Stipulation to Resolve Objections*. Finally, on March 10, 2004, the United States, with IDWR's concurrence, filed a *Standard Form 5* agreeing to a June 28, 1934 priority date and amended points of diversion.

Conclusions of Law

The United States of America is entitled to a partial decree adjudicating water right 86-10807 as described in the SF-5 and the attached *Special Master Recommendation for Partial Decree for Water Right 86-10807*.

DATED March 22, 2004.



TERRENCE A. DOLAN

Special Master

Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO

FILED

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In Re SRBA)
Case No. 19576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 86-10807

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

SOURCE: CLEARWATER RIVER TRIBUTARY: SNAKE 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: T37N R03W S32 LOT 1 (NESESE) (Instream Beginning Point) Within Nez Perce County
LOT 1 (SWESESE) (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
T37N R03W S32 LOT 1 (SESE)

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

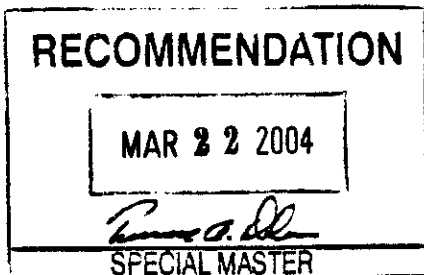
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

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



DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
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In Re SRBA)
)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 86-10807

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 22, 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

Robbin Hall
ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

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_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 86-10807

On March 22, 2004, Special Master TERRENCE A. DOLAN 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 22, 2004.

Robbin Hall
ROBBIN HALL
Deputy Clerk