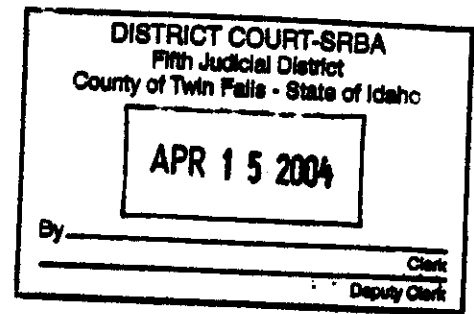




**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA

Case No. 39576

SPECIAL MASTER'S REPORT

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

**FOR WATER RIGHTS 24-10235, 24-
10261, 24-10351, 24-10542, 24-10237, 24-
10265, 24-10357, 24-10544, 24-10259, 24-
10279, 24-10541, 24-10538**

I. FINDINGS OF FACT

A. The above-captioned water rights were claimed by the United States, through the Bureau of Land Management as dual-based stockwater claims; meaning federal-law based claims pursuant to Public Water Reserve 107 and, alternatively, state-law based claims. The State of Idaho and the United States BLM stipulated that these state-law based claims would receive a priority date which would be the same date as the enactment of the Taylor Grazing Act in 1934.

B. On November 17, 2003, the BLM filed the affidavit of Frederic Price, indicating that at the time PWR 107 was executed, there were pending homestead applications for each of the lands to which the above water rights are appurtenant.

C. This Special Master previously ruled in Subcases 25-13635, 25-13637, 25-13653, 65-19960, and 65-19962 that a pending homestead application defeated a reservation under PWR 107.

II. CONCLUSIONS OF LAW

Therefore, based on the foregoing and this Special Master's ruling in Subcases 25-13635, 25-13637, 25-13653, 65-19960, and 65-19962, **IT IS RECOMMENDED** that the federal basis for the above water rights be ordered **disallowed** and the above water rights be decreed as state-based rights as set forth in the attached *Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

DATED: April 15, 2004.



THOMAS R. CUSHMAN
Special Master
Snake River Basin Adjudication

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
APR 15 2004	
By _____	Clerk 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): 24-10235
(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 April 15, 2004, with sufficient first-class postage prepaid to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

USDI BLM
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

CERTIFICATE OF MAILING

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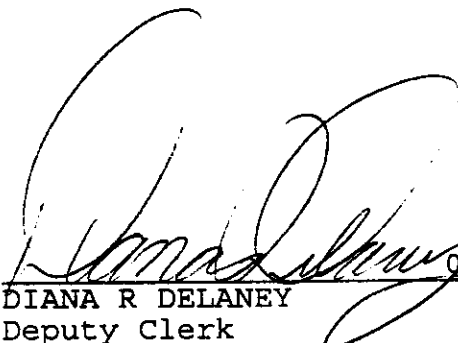
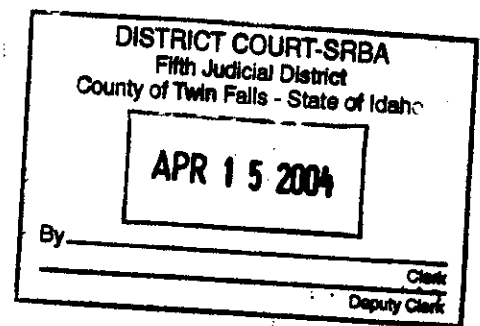

DIANA R DELANEY
Deputy Clerk

Exhibit A

Subcase Nos:

24-10235
24-10237
24-10259
24-10261
24-10265
24-10279
24-10351
24-10357
24-10538
24-10541
24-10542
24-10544



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): 24-10235
(SEE ATTACHED EXHIBIT A)

On April 15, 2004, Special Master JOHN M MELANSON 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 April 15, 2004.

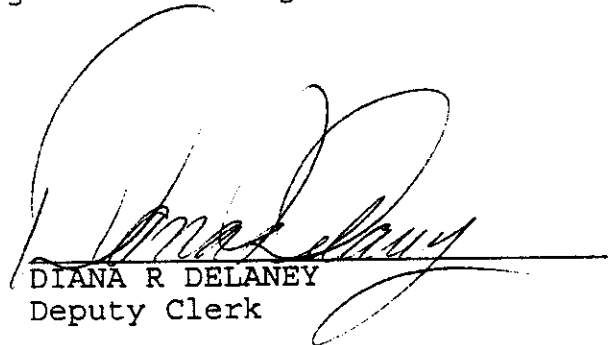

DIANA R DELANEY
Deputy Clerk

Exhibit A

Subcase Nos:

24-10235
24-10237
24-10259
24-10261
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24-10541
24-10542
24-10544

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 24-10538

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

SOURCE: MARTHAS CREEK TRIBUTARY: TOMS 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: T07S R46E S15 SENESE (Instream Ending Point) Within Caribou County
S22 NENENE (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 Caribou County
	T07S R46E S15 S22	SESE
		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.

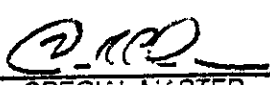
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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.

RECOMMENDATION

APR 15 2004


SPECIAL MASTER

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication