

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED 21

2004 APR 14 AM 11 27

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) Subcases 47-15285, *et al.*
) (USDI / BLM)
Case No. 39576) (see two lists of 109 claims attached)
)
) 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 12 (IDWR Basin 47)* on August 14, 1998. The Director recommended the above 109 claims to the United States of America, Department of Interior, Bureau of Land Management, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho, 83709-1657, for .02 cfs from various springs, creeks and streams for year-'round stockwater use in Twin Falls County, all with a priority date of January 1, 1875. based on beneficial use. The Director also noted with each recommendation under priority date:

4/17/1926 Claimed under federal reserved water right.

This water right is also claimed based on federal law with an April 17, 1926, date of priority pursuant to an Executive Order signed the same date and known as Public Water Reserve 107.

The State of Idaho filed *Objections* on February 10, 1999, objecting to priority date and alleging the water rights should not exist. On May 12, 2003, the United States and the State filed a *Joint Motion to Vacate Hearing on Dispositive Motions and to Proceed with Hearing Under I.C. § 42-1411(A)*. On February 24, 2004, the State filed a *Report on Status of State of Idaho's Objections for Selected Subcases in Basins 35 and 47*. In the *Report*, the State said its objections in the 109 subcases were withdrawn.

On April 8, 2004, the United States filed an *Affidavit of John R. Ash* in subcases 47-15285, *et al.* covering 121 subcases, including the above 109 claims.¹ Mr. Ash, a natural resource specialist (water rights) with the USDI / BLM in its Jarbidge Field Office located in Twin Falls, Idaho, stated that for the **PWR 28** claims, the land surrounding the 19 claims was unreserved federal public domain as of May 31, 1915, the water sources were confirmed by field investigation and there is sufficient surface water at the sites for consumptive use by livestock. For the **PWR 107** claims, Mr. Ash stated that the land surrounding those 90 claims was unreserved federal public domain as of April 17, 1926, the water sources were confirmed by field investigation and there was sufficient surface water at the sites for consumptive use by livestock.

Conclusions of Law

The United States is entitled to partial decrees adjudicating water rights as described in the attached *Special Master Recommendations for Partial Decrees for Water Rights*.

DATED April 14, 2004.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

¹ Mr. Ash's *Affidavit* included claims with pending objections which are **not** part of this *Special Master Report and Recommendation*. The *Affidavit* also included claim 47-15417 for which a *Special Master Report and Recommendation* was entered on March 29, 2004. Also, see the *Errata to the Affidavit of John R. Ash*, filed April 13, 2004.

PWR 28 (May 31, 1915)

47-15468
47-15471
47-15472
47-15473
47-15480
47-15482
47-15487
47-15492
47-15529
47-15532
47-15535
47-15546
47-15563
47-15607
47-15610
47-15875
47-16558
47-16563
47-16564

19 claims total

PWR 107 (April 17, 1926)

47-15285	47-15551	47-16494
47-15287	47-15554	47-16496
47-15297	47-15557	47-16509
47-15299	47-15560	47-16510
47-15310	47-15566	47-16517
47-15319	47-15573	47-16518
47-15334	47-15576	47-16519
47-15337	47-15581	47-16520
47-15340	47-15584	47-16521
47-15343	47-15638	47-16522
47-15346	47-15641	47-16524
47-15349	47-15644	47-16531
47-15352	47-15665	47-16534
47-15399	47-15677	47-16535
47-15402	47-15680	47-16536
47-15405	47-15722	47-16543
47-15411	47-15726	47-16545
47-15414	47-15734	47-16546
47-15427	47-15738	47-16555
47-15430	47-15742	47-16556
47-15446	47-15785	47-16560
47-15450	47-15791	47-16561
47-15451	47-15799	47-16562
47-15461	47-15810	47-16565
47-15465	47-15812	47-16577
47-15495	47-15833	47-16578
47-15498	47-15895	47-16584
47-15501	47-16477	47-16590
47-15540	47-16478	47-16591
47-15543	47-16481	47-16592

90 claims total

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In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 47-15285
(SEE ATTACHED EXHIBIT A)

On April 14, 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 April 14, 2004.



ROBBIN HALL
Deputy Clerk

Exhibit A

Subcase Nos:

47-15285	47-15785
47-15287	47-15791
47-15297	47-15799
47-15299	47-15810
47-15310	47-15812
47-15319	47-15833
47-15334	47-15895
47-15337	47-16477
47-15340	47-16478
47-15343	47-16481
47-15346	47-16494
47-15349	47-16496
47-15352	47-16509
47-15399	47-16510
47-15402	47-16517
47-15405	47-16518
47-15411	47-16519
47-15414	47-16520
47-15427	47-16521
47-15430	47-16522
47-15446	47-16524
47-15450	47-16531
47-15451	47-16534
47-15461	47-16535
47-15465	47-16536
47-15495	47-16543
47-15498	47-16545
47-15501	47-16546
47-15540	47-16555
47-15543	47-16556
47-15551	47-16560
47-15554	47-16561
47-15557	47-16562
47-15560	47-16565
47-15566	47-16577
47-15573	47-16578
47-15576	47-16584
47-15581	47-16590
47-15584	47-16591
47-15638	47-16592
47-15641	
47-15644	
47-15665	
47-15677	
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47-15726	
47-15734	
47-15738	
47-15742	

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In Re SRBA)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 47-15468
(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 14, 2004, with sufficient first-class postage prepaid to the following:

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

CERTIFICATE OF MAILING

PAGE 1
04/14/04

USDI BLM

Represented by:

US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724



ROBBIN HALL
Deputy Clerk

Exhibit A

Subcase Nos:

47-15468
47-15471
47-15472
47-15473
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47-15487
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In Re SRBA)
)
Case No. 39576)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 47-15468
(SEE ATTACHED EXHIBIT A)

On April 14, 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 14, 2004.



ROBBIN HALL
Deputy Clerk

Exhibit A

Subcase Nos:

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PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 47-15546

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

SOURCE: SPRING TRIBUTARY: SHACK CREEK

QUANTITY: 0.02 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 05/31/1915

THIS WATER RIGHT IS DECREED BASED ON FEDERAL LAW WITH A
MAY 31, 1915, DATE OF PRIORITY PURSUANT TO AN EXECUTIVE ORDER
SIGNED THE SAME DATE AND KNOWN AS PUBLIC WATER RESERVE 28.

POINT OF DIVERSION: T16S R13E S28 LOT 4 (NESWSW) Within Twin Falls County

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 Twin Falls County
T16S R13E S28 LOT 4 (SWSW)

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

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

