

2004 APR 21 PM 12 49

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, State-Based Cases

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 December 4, 1997, the State of Idaho filed an objection to each of the above listed water rights.

Trial was held in these subcases on December 11, 2003. Affidavits were filed prior to the trial being held.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Affidavit* or this Special Masters decision from the bench, IT IS RECOMMENDED that the water rights listed on Exhibit A be decreed with a priority date of June 28, 1934, as set forth on the attached *Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

DATED April 21, 2004.



THOMAS R. CUSHMAN
Special Master
Snake River Basin Adjudication

EXHIBIT A STATE PRIORITY BASED ON TRIAL

Subcase Nos:

51-10398
51-10481
51-10570
51-10657
51-10824
51-10888
51-10897
51-10912
51-10918
51-10922
51-10924
51-10945
51-10951
51-10972
51-10976
51-10984
51-10996
51-10998
51-11000
51-11002
51-11004
51-11006
51-11008
51-11010
51-11012
51-11014
51-11016
51-11059
51-11080
51-11102
51-11117
51-11140
51-11141
51-11157
51-11342

51-12824

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 DEBBIE LASH
 Deputy Clerk

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In Re SRBA)
)
Case No. 39576)
)
)

Water Right(s): 51-10398
(SEE ATTACHED EXHIBIT A)

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.


DEBBIE LASH
Deputy Clerk

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED *DS*

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

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 51-10972

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

SOURCE: SPRING TRIBUTARY: BRUSH 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: T16S R05E S18 NESESE Within Owyhee 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 Owyhee County
T16S R05E S18 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

RECOMMENDATION

APR 21 2004

[Signature]
SPECIAL MASTER