

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    |

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

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

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 21, 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


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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

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

DISTRICT COURT-SRB  
TWIN FALLS CO. IDAHO  
FILED                     

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In Re SRBA )  
                  ) PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  ) Water Right 51-11006

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

SOURCE: SPRING TRIBUTARY: SHEEP 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 S29 SENWSW Within Owyhee County

| PURPOSE AND<br>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 S29 NWSW

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

                      
SPECIAL MASTER