

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF IDAHO
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: 29-12679, 29-
	)	12681, 29-12667, 29-12970 and 29-13017

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 June 3, 1998, the State of Idaho filed an objection to each of the above listed water rights. On December 11, 2003, trial was held on these and other claims pursuant to § 42-1411(a) requiring the United States to provide *prima facie* showing of the claimed water right.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Affidavit* and this Special Master, IT IS RECOMMENDED that water rights 29-12679, 29-12681, 29-12667, 29-12970 and 29-13017 be decreed with the elements as set forth in the attached *Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

DATED April 22, 2004.



THOMAS R. CUSHMAN
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

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2004 APR 22 PM 2 07

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 29-12679

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

SOURCE: SPRING TRIBUTARY: YAGO CREEK

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 12/29/1919

CLAIMED UNDER PWR 68

POINT OF DIVERSION: T11S R38E S05 SESENW Within Bannock 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 Bannock County
T11S R38E S05 SENW

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 22 2004


SPECIAL MASTER

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PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 29-12667

2004 APR 22 PM 2 07

QUANTITY: 0.02 CFS

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

RULE 54 (b) CERTIFICATE

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

RECOMMENDATION

APR 22 2004

SPECIAL MASTER

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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In Re SRBA)
)
Case No. 39576)
_____) Water Right 29-12970

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

SOURCE: SPRING TRIBUTARY: BLACKROCK CREEK

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 11/12/1910

POINT OF DIVERSION: T07S R35E S14 SWSWNE Within Bannock 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 Bannock County
 T07S R35E S14 SWNE

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
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STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

CERTIFICATE OF MAILING

Water Right(s): 29-12667
29-12679 29-12681 29-12970
29-13017

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 22, 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


DEBBIE LASH
Deputy Clerk

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

Water Right(s): 29-12667
29-12679 29-12681 29-12970
29-13017

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