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Department of Water Resources

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED
2004 MAY 11 PM 2 17

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 85-12061, 85-12087, 85-12107,
Case No. 39576) 85-12114 and 85-12146
) (USDI/BLM)
)
) 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 22 (IDWR Basin 85)* on March 19, 1999. The Director recommended the above five claims to the United States of America, Department of Interior, Bureau of Land Management ("USDI/BLM"), 1387 S. Vinnell Way, Boise, Idaho, 83709-1657, for .02 cfs from various streams and creeks for year-'round instream stockwater use in Clearwater and Nez Perce Counties with priority dates of January 1, 1878, and November 18, 1895, based on beneficial use.

The State of Idaho filed *Objections* on June 2, 1999, objecting to priority date and alleging the water rights should not exist. On September 17, 1999, the Western Stockgrowers Association, Joyce Livestock Company, Jerry Hoagland, Pickett Ranch & Sheep Company, Michael and Gary Poulton, Bruce, Jared, Karl and Scott Bedke and Joe Tugaw ("private parties") filed *Objections* alleging the water rights should not exist. The same date, the USDI/BLM filed *Objections* to source or place of use.

On August 29, 2002, the USDI/BLM and the private parties filed a *Stipulation and Joint Motion for Order Approving Stipulation* in multiple related subcases, including the above five subcases. As part of the *Stipulation*, the private parties agreed to dismiss their objections and responses and "for claims on lands administered by the Bureau of Land Management, the United States shall receive a water right with a priority date which is the later of a) the claimed priority date or b) June 28, 1934."

On September 5, 2002, the Special Master entered an *Order Granting Withdrawal of Objections and Responses* in the related subcases objected to by the private parties. On April 21, 2003, the Special Master entered an *Order Dismissing State of Idaho Objections* based on a *Stipulation to Resolve Objections* filed by the USDI/BLM and the State. On June 10, 2003, the USDI/BLM filed a *Notice Regarding Priority Date* stating the priority date for all of the above subcases should be June 28, 1934.

On March 25, 2004, the USDI/BLM, with IDWR's concurrence, filed *Amended Claim Standard Forms 5* for the five claims agreeing to a priority date of June 28, 1934, and amended source, points of diversion, places of use and additional remarks.

Conclusions of Law

The USDI/BLM is entitled to partial decrees adjudicating water rights as described in the *Amended Claim Standard Forms 5* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 85-12061, 85-12087, 85-12107, 85-12114 and 85-12146*.

DATED May 11, 2004.


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

DISTRICT COURT-SRBA
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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)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 85-12061
85-12087 85-12107 85-12114
85-12146

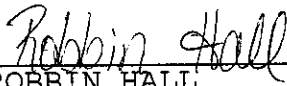
CERTIFICATE OF MAILING

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 May 11, 2004, with sufficient first-class postage prepaid to the following:

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

USDI BLM

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



ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

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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

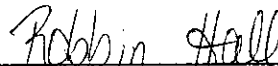
Water Right(s): 85-12061
85-12087 85-12107 85-12114
85-12146

On May 11, 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 May 11, 2004.



ROBBIN HALL
Deputy Clerk

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PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 85-12087

2004 MAY 11 PM 2 17

QUANTITY: 0.02 CFS

PRIORITY DATE: 06/28/1934

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE:	Stockwater	Within Nez Perce County
	T32N R04W S03	SWNW SENE
	S04 LOT 1	(NENE) LOT 2 (NWNE)
		SENE LOT 3 (NENW)

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).

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

MAY 11 2004

[Signature]

SPECIAL MASTER