

Department of Water Resources

MAY 11 2004

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

2004 MAY 11 PM 12 23

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 85-12052, 85-12085, 85-12102,
Case No. 39576) 85-12143 and 85-12178
) (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 5 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 creeks and streams in Lewis and Nez Perce Counties for year-round instream stockwater use with priority dates of January 1, 1878, November 18, 1895, or June 28, 1934, 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. The United States filed *Objections* on September 17, 1999, objecting to points of diversion and places of use.

On August 29, 2002, the United States and certain private parties filed a *Stipulation and Joint Motion for Order Approving Stipulation* in multiple related subcases, including the above 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* filed by the private parties. On April 21, 2003, the Special Master entered *Orders Dismissing State of Idaho Objections* based on a *Stipulation to Resolve*

Objections filed by the United States and the State. Finally, on March 25, 2004, the United States, with IDWR's concurrence, filed *Amended Claim Standard Forms 5* agreeing to a priority date of June 28, 1934, and amended points of diversion and places of use.

Conclusions of Law

The United States is entitled to partial decrees adjudicating water rights as described in the *Amended Claim SF-5's* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 85-12052, 85-12085, 85-12102, 85-12143 and 85-12178*.

DATED May 11, 2004.



TERRENCE A. DOLAN

Special Master

Snake River Basin Adjudication

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

2004 MAY 11 PM 12 24

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): 85-12052
85-12085 85-12102 85-12143
85-12178

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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DISTRICT COURT-SRBA
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2004 MAY 11 PM 12 24

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

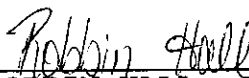
Water Right(s): 85-12052
85-12085 85-12102 85-12143
85-12178

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

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

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 85-12102

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SOURCE: UNNAMED STREAM TRIBUTARY: BILLY 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:	T32N R04W S19 LOT 11	(SNNWSW)	(Instream Beginning Point)	Within Nez Perce County
	R05W S24	SENWNE	(Instream Beginning Point)	
		NENWNE	(Instream Ending Point)	
		NWSENE	(Instream Ending Point)	

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 Nez Perce County
	T32N R04W S19 LOT 11 (NWSW)	
	R05W S24	SENE
	NESE	

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.

RECOMMENDATION

MAY 11 2004

Thomas A. Blum
SPECIAL MASTER