

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED
2004 MAY 28 AM 11 11

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
	)	
	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
Case No. 39576	)	
_____	)	FOR WATER RIGHTS (SEE
	)	ATTACHED EXHIBIT A(2) BASIN 67)

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.

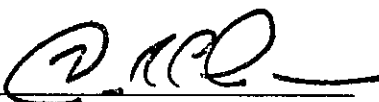
On September 17, 1999, an objection was filed to the above listed water rights by Pickett Ranch & Sheep Co, Western Stockgrowers Assoc., Joe Tugaw, Michael Poulton, Gary Poulton, Karl Bedke, Jared Bedke, Scott Bedke, Bruce Bedke, Jerry Hoagland and Joyce Livestock Company. The State of Idaho also filed an objection on June 2, 1999. On August 29, 2001, the parties filed a *Stipulation and Joint Motion for Order Approving Stipulation, Notice of Withdrawal of Objections and Responses* filed by Semanko for Bruce Bedke et al, *Notice of Withdrawal of Objections and Responses* filed by Semanko for Western Stockgrowers et al. The parties agreed to a priority date of June 28, 1934 on the *Stipulation*. On September 18, 2002, an *Order Dismissing Objections and Responses with Prejudice; and Order Dismissing Parties* was issued. On March 11, 2003, the State of Idaho filed a *Stipulation to Resolve Objections*. An *Order Dismissing Objections and Dismissing the State of Idaho as a Party* was issued on June 30, 2003.

The *Notice of Withdrawal of Objections* filed on behalf of Pickett Ranch & Sheep, AL Cattle, Western Stockgrowers Joe Tugaw, Michael Poulton, Gary Poulton, Karl Bedke and Scott Bedke did not include the subcases listed on exhibit A(2). This Special Master held a hearing in Boise, Idaho on April 23, 2004, wherein, Norman M Semanko was present and stated on record that the parties intended on withdrawing in all these subcases.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Stipulation and Joint Motion to Approve Stipulation* and the verbal withdrawal, IT IS RECOMMENDED that the water rights listed on exhibit A(2) Basin 67, be **decreed** with the elements as set forth in the attached *Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

DATED May 28, 2004.



THOMAS R. CUSHMAN
Special Master
Snake River Basin Adjudication

EXHIBIT A(2) BASIN 67

Subcase Nos:

67-12378	67-13068
67-12646	67-13080
67-12648	67-13092
67-12649	67-13124
67-12651	67-13187
67-12660	67-13188
67-12661	67-13192
67-12698	67-13193
67-12699	67-13194
67-12700	67-13196
67-12701	67-13336
67-12702	
67-12708	
67-12717	
67-12718	
67-12719	
67-12721	
67-12724	
67-12781	
67-12798	
67-12801	
67-12802	
67-12844	
67-12846	
67-12936	
67-12937	
67-12938	
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67-13039	
67-13040	
67-13041	
67-13054	
67-13061	
67-13062	
67-13064	
67-13067	

(Subcase list: 67 FN 63)
5/28/04

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In Re SRBA)
)
Case No. 39576)
)

Water Right(s): 67-12378
(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 May 28, 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

United State Department of Justice
550 West Fort Street, MSC 033
Boise, Idaho 83724

Deputy Clerk

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In Re SRBA)
)
Case No. 39576)
)

)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 67-12378
(SEE ATTACHED EXHIBIT A)

On May 28, 2004, Special Master THOMAS R CUSHMAN
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 28, 2004.



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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 19576)
_____) Water Right 67-12649

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

SOURCE: SMITH GULCH TRIBUTARY: MILL 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: T12N R01E S27 NWSWSW (Instream Ending Point) Within Washington County
SWNWSE (Instream Beginning Point)
T13N R01E S22 SWSESW (Instream Ending Point)
S34 SENESW (Instream Beginning 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 Washington County
T13N R01E S22 SESW
S27 NENW NWNW
SWNW NESW
NWSW SESW
NWSE SWSE
S34 NENW NWNW
SENW NESW

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

MAY 28 2004


SPECIAL MASTER