

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED
2004 JUN 11 AM 11 04

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
Case No. 39576	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHTS 63-5069, 63-
	)	5069A, 63-5069B, 63-31290, 63-31290A &
	)	63-31290B

I. FINDINGS OF FACT

A notice of claim was filed for water rights 63-5069 and 63-31290 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 January 30, 2003, the United States of America, USDI Forest Service filed an objection to the place of use element in water rights 63-5069 and 63-31290.

On April 9, 2004, the parties filed a *Standard Form 5* splitting the water rights into A and B portions, resolving the objections. All parties to the subcase and IDWR are signatories to the *Standard Form 5*.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein and pursuant to the *Standard Form 5*, it is RECOMMENDED that water rights 63-5069 and 63-31290 be **decreed disallowed** and water rights 63-5069A, 63-5069B, 63-31290A and 63-31290B be **decreed** with the elements as set forth in the attached *Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

DATE June 9, 2004.



THOMAS R CUSHMAN
Special Master
Snake River Basin Adjudication

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

CERTIFICATE OF MAILING

Water Right(s): 63-05069
63-05069A 63-05069B 63-31290
63-31290A 63-31290B

CERTIFICATE OF MAILING

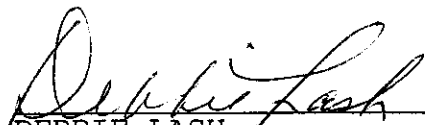
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on June 11, 2004, with sufficient first-class postage prepaid to the following:

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

DANSKIN CATTLE LLC
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702
Phone: 208-424-7800

UNITED STATES OF AMERICA
Represented by:
DAVID NEGRI
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

CERTIFICATE OF MAILING


DEBBIE LASH
Deputy Clerk
PAGE 1
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2004 JUN 11 AM 11 04

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

Water Right(s): 63-05069
63-05069A 63-05069B 63-31290
63-31290A 63-31290B

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-SRBA
TWIN FALLS CO., IDAHO
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In Re SRBA)
PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
Water Right 63-31290B

NAME AND ADDRESS: DANSKIN CATTLE LLC
C/O ROBERT C BAKER
PO BOX 488
MOUNTAIN HOME, ID 83647

SOURCE: ROCK CREEK TRIBUTARY: SOUTH FORK BOISE RIVER

QUANTITY: 0.056 CFS

USE OF THIS RIGHT WITH RIGHT NO. 63-115 & 63-31290A IS LIMITED TO
A TOTAL COMBINED DIVERSION RATE OF 1.0 CFS.

PRIORITY DATE: 04/01/1974

THIS WATER RIGHT IS SUBORDINATE TO ALL WATER RIGHTS WITH A
PRIORITY DATE EARLIER THAN APRIL 12, 1994, THAT ARE NOT DECREED
AS ENLARGEMENTS PURSUANT TO SECTION 42-1426, IDAHO CODE. AS
BETWEEN WATER RIGHTS DECREED AS ENLARGEMENTS PURSUANT TO SECTION
42-1426, IDAHO CODE, THE EARLIER PRIORITY RIGHT IS THE SUPERIOR
RIGHT.

POINT OF DIVERSION: T01N R07E S14 NENW Within Elmore County
S15 LOT 5 (SENE)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.056 CFS

PLACE OF USE:	Irrigation	Within Elmore County
	T01N R07E S09 NESE 0.8 SESE 0.5	
	S14 LOT 1 (NWSW) 4.0 LOT 2 (SWSW) 0.5	
	S15 NWNW 1.2 LOT 6 (NESE) 4.4	
	11.4 Acres Total	

USE OF THIS RIGHT WITH RIGHT NO. 63-115 AND 63-31290A IS LIMITED
TO THE IRRIGATION OF A COMBINED TOTAL OF 117.3 ACRES IN A SINGLE
IRRIGATION SEASON.

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

THIS RIGHT IS BASED UPON AN ENLARGEMENT OF RIGHT NO. 63-115
PURSUANT TO SECTION 42-1426, IDAHO CODE.
THIS WATER RIGHT IS ALSO SUBJECT TO THE TERMS AND CONDITIONS OF
THE STIPULATION TO RESOLVE SUBCASES ENTERED INTO ON MARCH 10,
2004 BETWEEN THE UNITED STATES OF AMERICA AND THE DANSKIN CATTLE
LLC FILED IN THE OFFICE OF THE ELMORE COUNTY RECORDER AND
RECORDED ON MARCH 11, 2004 AS INSTRUMENT NO. 354793; THE
PROVISIONS OF SUCH STIPULATION TO APPLY FULLY TO THIS WATER
RIGHT.

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

