

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

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

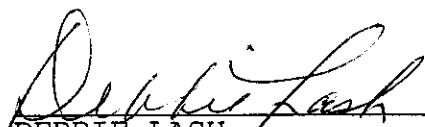
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on June 11, 2004, with sufficient first-class postage prepaid to the following:

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
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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
FILED *[Signature]*

2004 JUN 11 AM 11 04

In Re SRBA)
)
Case No. 39576)
)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 63-05069B

NAME AND ADDRESS: DANKIN CATTLE LLC
C/O ROBERT C BAKER
PO BOX 488
MOUNTAIN HOME, ID 83547

SOURCE: BOCK CREEK TRIBUTARY: SOUTH FORK BOISE RIVER
UNNAMED STREAM TRIBUTARY: SOUTH FORK BOISE RIVER

QUANTITY: 0.24 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT AND RIGHT NO. 63-5069A
FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 04/01/1892

POINT OF DIVERSION: T01N R07E S15 SWSESE Within Elmore County
S22 NENENE
SWNENE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.22 CFS
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Irrigation Within Elmore County
T01N R07E S15 LOT 7 (NESE) 11.0
11.0 Acres Total
Stockwater Within Elmore County
Same as Irrigation

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

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 DANKIN CATTLE
LLC FILED IN THE OFFICE OF THE ELMORE COUNTY RECORDER AND
RECORDED ON MARCH 11, 2004 AS INSTRUMENT NO. 354703; 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

