

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     | ) | <b>SPECIAL MASTER'S REPORT</b>    |
|                | ) |                                   |
|                | ) | <b>FINDINGS OF FACT AND</b>       |
| Case No. 39576 | ) | <b>CONCLUSIONS OF LAW</b>         |
|                | ) |                                   |
|                | ) | <b>FOR WATER RIGHTS: 79-4412,</b> |
|                | ) | <b>79-4419 and 79-4420</b>        |
| _____          | ) |                                   |

**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 that these water rights be decreed as disallowed.

On September 17, 1999, an objection was filed to the above listed by the United States of America, Bureau of Land Management, objecting to the water rights not being recommended. Subsequently, a *Standard Form 5* was filed on May 17, 2004, settling the objection.

**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 79-4412, 79-4419 and 79-4420 be decreed with the elements as set forth in the attached *Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

DATED June 18, 2004.

  
\_\_\_\_\_  
THOMAS R. CUSHMAN  
Special Master  
Snake River Basin Adjudication

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 \_\_\_\_\_

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

PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 79-04412

2004 JUN 18 PM 3 57

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

SOURCE: SMITH SPRING TRIBUTARY: RICE CREEK

QUANTITY: 0.01 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000  
GALLONS PER DAY.

PRIORITY DATE: 09/07/1945

POINT OF DIVERSION: T28N R01W S23 SESESE Within Idaho County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Wildlife       | 01-01 TO 12-31 | 0.01 CFS |

PLACE OF USE: Wildlife Within Idaho County  
T28N R01W S23 SESE

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

JUN 18 2004

  
\_\_\_\_\_  
SPECIAL MASTER

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

DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED \_\_\_\_\_

In Re SRBA )  
                  ) PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
\_\_\_\_\_) Water Right 79-04419

2004 JUN 18 PM 3 57

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

SOURCE: SPRING TRIBUTARY: GETTA CREEK

QUANTITY: 0.01 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000  
GALLONS PER DAY.

PRIORITY DATE: 09/23/1944

POINT OF DIVERSION: T28N R01W S23 SENWSE Within Idaho County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Wildlife       | 01-01 TO 12-31 | 0.01 CFS |

PLACE OF USE: Wildlife Within Idaho County  
T28N R01W S23 NWSE

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

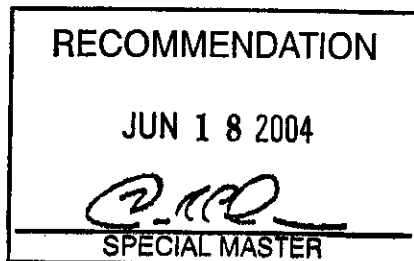
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A  
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DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED

2004 JUN 18 PM 3 57

In Re SRBA )  
Case No. 39576 )  
PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 79-04420

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

SOURCE: SPRING TRIBUTARY: SOTIN CREEK

QUANTITY: 0.01 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000  
GALLONS PER DAY.

PRIORITY DATE: 09/23/1944

POINT OF DIVERSION: T28N R01E S31 LOT 1 (NWNWNW) Within Idaho County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Wildlife       | 01-01 TO 12-31 | 0.01 CFS |

PLACE OF USE: Wildlife Within Idaho County  
T28N R01E S31 LOT 1 (NWNW)

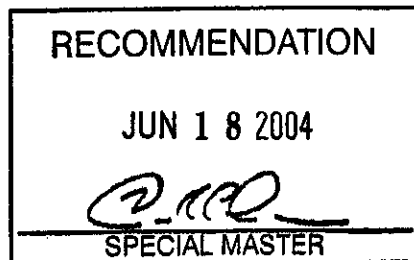
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John M. Melanson  
Presiding Judge of the  
Snake River Basin Adjudication



DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED \_\_\_\_\_

2004 JUN 18 PM 3 57

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

CERTIFICATE OF MAILING

Water Right(s): 79-04412  
79-04419 79-04420

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 18, 2004, with sufficient first-class postage prepaid to the following:

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

CERTIFICATE OF MAILING

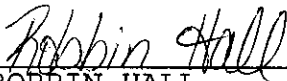
PAGE 1  
06/18/04

A L CATTLE INC  
BRUCE BEDKE  
EUGENE MATHEWS  
FLYING TRIANGLE INC  
GARY POULTON  
JARED BEDKE  
JERRY HOAGLAND  
JOE TUGAW  
JOYCE LIVESTOCK  
KARL (BUD) BEDKE  
LUTHER GARDNER  
MICHAEL POULTON  
PICKETT RANCH & SHEEP CO.  
SCOTT BEDKE  
SHOULDERS 3 RANCHES INC  
WESTERN STOCK GROWERS ASSOC  
WILLIS D & BETTY G DEVENY

Represented by:  
NORMAN M. SEMANKO  
ATTORNEY AT LAW  
205 N 10TH ST, STE 530  
BOISE, ID 83702  
Phone: 208-344-6690

USDI BLM

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

  
\_\_\_\_\_  
ROBBIN HALL  
Deputy Clerk

DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED \_\_\_\_\_

2004 JUN 18 PM 3 57

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

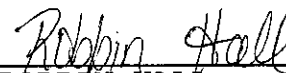
Water Right(s): 79-04412  
79-04419 79-04420

On June 18, 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 June 18, 2004.

  
\_\_\_\_\_  
ROBBIN HALL  
Deputy Clerk