

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

2004 JUN 23 AM 9 17

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
	)	
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHT: 63-9642
_____	)	

I. FINDINGS OF FACT

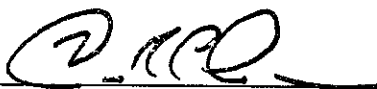
A notice of claim was filed for the above listed water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

On January 30, 2003, the United States of America, USDI Forest Service filed an objection to source, quantity, priority date, point of diversion and place of use elements in this water right. Subsequently, a *Standard Form 5* was filed in the above listed subcase on June 14, 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 the above listed water right be decreed with the elements as set forth in the attached *Recommendation for Partial Decree 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 *PT*

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In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
_____) Water Right 63-09642

NAME AND ADDRESS: MIDDLE FORK ASSOC
C/O GREG AUCH
11477 HIGHLANDER RD
BOISE, ID 83709

SOURCE: GROUND WATER TRIBUTARY: MIDDLE FORK BOISE RIVER
PHIFER CREEK TRIBUTARY: MIDDLE FORK BOISE RIVER

QUANTITY: 0.44 CFS
77.60 AFY

PRIORITY DATE: 11/06/1980

POINT OF DIVERSION: T06N R09E S35 SWNE Within Elmore County
S36 SWSW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Mining	04-01 TO 11-01	0.44 CFS
			77.60 AFY

PLACE OF USE:	Mining	Within Elmore County
	T05N R09E S02 LOT 4 (NWNW)	
	T06N R09E S35	SENE
		NESW
		NESE
		NWSE
		SESE
	S36	SWNE
		SWNE
		SENE
		NWSE
		NWSE

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

The points of diversion and places of use for this water right are on National Forest System land, further the places of use are on unpatented placer mining claims known as Wishful No. 1, Wishful No. 2, and Wishful No. 3.

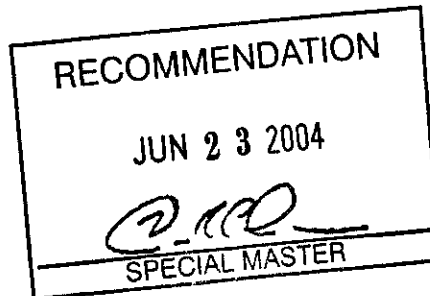
This water right is only for use on the mining claims listed above for mining purposes authorized under state and federal law.

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



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

In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 63-09642

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 23, 2004, with sufficient first-class postage prepaid to the following:

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

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

MIDDLE FORK ASSOC
Represented by:
RICHARD D. HIMBERGER
380 E PARKCENTER BLVD STE 100
BOISE, ID 83706
Phone: 208-336-8442

CERTIFICATE OF MAILING


DEBBIE LASH
Deputy Clerk

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06/23/04

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In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 63-09642

On June 23, 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 23, 2004.


DEBBIE LASH
Deputy Clerk