

2004 JUN 23 AM 9 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
Case No. 39576	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHTS: (SEE
	)	ATTACHED EXHIBITS A & B, BASIN
	)	79 FILE NUMBER 10)

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. The above listed water rights were claimed as a dual based claim. (i.e. claimed with both a state and federal reserved priority date.

On September 17, 1999, an objection was filed to the above listed water right 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. 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.

On April 21, 2004, an Affidavit of Craig A Johnson was filed. A 42-1411(a) was held on April 23, 2004. Lee Leininger appeared on behalf of the United States and David Barber appeared for the State of Idaho. Per the Affidavit the United States requested the water rights on exhibits A &

B be issued as PWR 107 with a priority date of 4/17/1926. The Affidavit indicated that at the time PWR 107 was executed, there was a pending homestead application for the lands to which the water rights on exhibit B are appurtenant. Therefore, this Special Master recommends a state based priority date for the water rights on exhibit B and a federal reserved priority date for the water rights listed on exhibit A.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that the water rights listed on Exhibit A and B 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

EXHIBIT B BASIN 79 FN 10 HOMESTEAD CASES

Subcase Nos:

79-11652
79-11656
79-11661
79-11666
79-11668
79-11716
79-11718
79-11720

EXHIBIT A BASIN 79 FED RESERVE RIGHTS

Subcase Nos:

79-11598	79-11708
79-11600	79-11709
79-11601	79-11711
79-11603	79-11712
79-11605	79-11714
79-11608	79-11722
79-11610	79-11724
79-11612	79-11726
79-11614	79-11728
79-11616	79-11730
79-11618	79-11734
79-11620	79-11749
79-11622	79-11751
79-11624	79-11783
79-11626	79-11784
79-11628	79-13681
79-11630	79-13682
79-11632	79-13683
79-11634	79-13685
79-11636	79-13687
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79-11707	

(Subcase list: 79TRIB)
6/18/04

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In Re SRBA)
)
Case No. 39576)
)

Water Right(s): 79-11598
(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 June 23, 2004, with sufficient first-class postage prepaid to the following:

USDI BLM

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


DEBBIE LASH
Deputy Clerk

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(SEE ATTACHED EXHIBIT A)

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