DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO
FILED
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**
Case No. 39576	**FINDINGS OF FACT AND 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

(Subcase list: 79 ST MIN)
6/18/04

EXHIBIT A BASIN 79 FED RESERVE RIGHTS

Subcase Nos:

79-11598
79-11600
79-11601
79-11603
79-11605
79-11608
79-11610
79-11612
79-11614
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79-11751
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79-11784
79-13681
79-13682
79-13683
79-13685
79-13687
79-13691

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

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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)	CERTIFICATE OF MAILING
)	
Case No. 39576)	
)	Water Right(s): 79-11598 (SEE ATTACHED EXHIBIT A)

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

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

Debbie Lash
DEBBIE LASH
Deputy Clerk

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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): 79-11598 (SEE ATTACHED EXHIBIT A)

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
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

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In Re SRBA	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 79-13685

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

SOURCE: SPRING TRIBUTARY: SALMON RIVER

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 04/17/1926

****
* 4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT *
*
* THIS WATER RIGHT IS CLAIMED BASED ON FEDERAL LAW *
* WITH AN APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN *
* EXECUTIVE ORDER SIGNED THE SAME DATE AND KNOWN AS PUBLIC *
* WATER RESERVE 107. *
****

POINT OF DIVERSION: T31N R02W S34 LOT 3 (NWNWNW) Within Idaho County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Stockwater Within Idaho County
T31N R02W S34 LOT 3 (NWNW)

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 23 2004
SPECIAL MASTER