

|                                                                                         |              |
|-----------------------------------------------------------------------------------------|--------------|
| DISTRICT COURT-SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |              |
| JUN 29 2004                                                                             |              |
| By _____                                                                                | Clerk        |
| _____                                                                                   | Deputy Clerk |

**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: (SEE ATTACHED</b> |
|                | ) | <b>EXHIBIT A BASIN 79 SF5 AMENDED</b>  |
| _____          | ) | <b>CLAIMS), 79-11110 and 79-10998</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 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 United States also filed an objection on September 17, 1999. The State of Idaho filed an objection on June 8, 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 May 17, 2004, the United States filed a *Standard Form 5/Amended Claim* in each of the subcases listed on Exhibit A. A *Standard Form 5* was also filed in 79-11110 and 79-10998. An objection deadline was set for June 28, 2004, for the subcases listed on Exhibit A. No objections were filed and the time for filing has expired.

## II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Form 5/Amended Claim* and the *Standard Form's 5*, IT IS RECOMMENDED that the water rights on Exhibit A Basin 79 SF5 Amended Claims and water rights 79-11110 and 79-10998 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 29, 2004.



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THOMAS R. CUSHMAN  
Special Master  
Snake River Basin Adjudication

EXHIBIT A BASIN 79 SF5 AMENDED CLAIMS

Subcase Nos:

|          |          |
|----------|----------|
| 79-10986 | 79-11512 |
| 79-10987 | 79-11513 |
| 79-10999 | 79-11528 |
| 79-11001 | 79-11539 |
| 79-11004 | 79-11542 |
| 79-11011 | 79-11543 |
| 79-11027 | 79-11547 |
| 79-11028 | 79-11549 |
| 79-11032 | 79-11551 |
| 79-11034 | 79-11553 |
| 79-11039 | 79-11568 |
| 79-11048 | 79-11583 |
| 79-11071 | 79-11671 |
| 79-11088 | 79-11745 |
| 79-11097 | 79-11760 |
| 79-11099 | 79-11770 |
| 79-11102 |          |
| 79-11114 |          |
| 79-11163 |          |
| 79-11181 |          |
| 79-11184 |          |
| 79-11186 |          |
| 79-11200 |          |
| 79-11216 |          |
| 79-11258 |          |
| 79-11271 |          |
| 79-11277 |          |
| 79-11281 |          |
| 79-11291 |          |
| 79-11299 |          |
| 79-11303 |          |
| 79-11324 |          |
| 79-11338 |          |
| 79-11340 |          |
| 79-11342 |          |
| 79-11346 |          |
| 79-11354 |          |
| 79-11368 |          |
| 79-11383 |          |
| 79-11408 |          |
| 79-11414 |          |
| 79-11429 |          |
| 79-11440 |          |
| 79-11446 |          |
| 79-11451 |          |
| 79-11453 |          |
| 79-11457 |          |
| 79-11495 |          |
| 79-11496 |          |
| 79-11498 |          |

(Subcase list: DML MRR 29)  
6/24/04



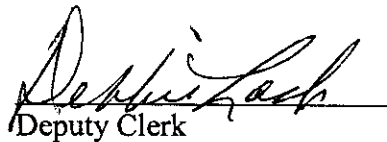
**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

|                |   |                                              |
|----------------|---|----------------------------------------------|
| In Re SRBA     | ) | <b>SUBCASES: Exhibit A Basin 79 SF5</b>      |
|                | ) | <b>Amended Claims, 79-11110 and 79-10998</b> |
| Case No. 39576 | ) |                                              |
| _____          | ) | <b>CERTIFICATE OF MAILING</b>                |

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT AND RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER' REPORT AND RECOMMENDATION were mailed June 29, 2004, with sufficient first-class postage prepaid to the following:

Director of IDWR  
P O Box 83720  
Boise, Idaho 83720-0098

United States of America  
USDI BLM  
550 West Fort Street, MSC 033  
Boise, Idaho 83724

  
Deputy Clerk



**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>SUBCASES: See Exhibit A Basin 79 SF5</b>  |
|                | ) | <b>Amended Claims, 79-11110 and 79-10998</b> |
| Case No. 39576 | ) |                                              |
| _____          | ) | <b>NOTICE OF ISSUANCE</b>                    |

On June 29, 2004, special Master THOMAS R. CUSHMAN issued a ***SPECIAL MASTER'S REPORT AND 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 by the 28th day of the month following the publication of the filing of the ***Special Master's Report and Recommendation*** in the Docket Sheet (***AO1***, Section 13a).

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the ***Special Master's Report and Recommendation*** shall constitute a waiver of the right to challenge it before the Presiding Judge.

  
Deputy Clerk

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

JUN 29 2004

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

PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 79-11184

By \_\_\_\_\_ Clerk  
\_\_\_\_\_ Deputy Clerk

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

SOURCE: UNNAMED STREAM TRIBUTARY: SALMON RIVER

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 06/28/1934

POINT OF DIVERSION: T30N R03W S06 LOT 10 (NWSWSE) (Instream Beginning Point) Within Nez Perce County  
LOT 10 (SWSESE) (Instream Ending Point)

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Stockwater     | 01-01 TO 12-31 | 0.02 CFS |

PLACE OF USE: Stockwater Within Nez Perce County  
T30N R03W S06 LOT 10 (SWSE) LOT 10 (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 29 2004

SPECIAL MASTER