

DISTRICT COURT-SRBA Fifth Judicial District 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	)	SPECIAL MASTER'S REPORT
	)	
	)	FINDINGS OF FACT AND
Case No. 39576	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHTS: (SEE ATTACHED
	)	EXHIBIT A BASIN 79 SF5 AMENDED
_____	)	CLAIMS), 79-11110 and 79-10998

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.



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



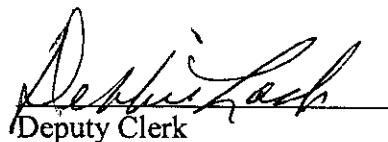
**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

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

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

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

JUN 29 2004

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)
)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 79-11338

By _____ Clerk
Deputy Clerk

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

SOURCE: MOONSHINE CANYON CREEK TRIBUTARY: RICE CREEK

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: T29N R01W S25 NESWSE (Instream Ending Point) Within Idaho County
NESWSE (Instream Beginning Point)

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
T29N R01W S25 SWSE

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