

67-13281-1 FM 1:35
JUL 1 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	)	SECOND AMENDED SPECIAL
	)	MASTER'S REPORT
Case No. 39576	)	
	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHTS: 67-13072,
	)	67-13261, 67-13281, 67-13282

A *Special Master's Report and Recommendation* was issued on June 2, 2004 in the above subcases.

A clerical error was made in subcases 67-13072, 67-13261, 67-13281, and 67-13282. During a hearing on July 31, 2003, Special Master Thomas R. Cushman had ordered Amended Director's Reports from the Idaho Department of Water Resources in those cases to determine priority date for water rights appurtenant to after-acquired lands by the United States, Bureau of Land Management. No Amended Director's Reports were filed. Therefore, subcases 67-13072, 67-13261, 67-13281, and 67-13282 should not have been recommended in the June 2, 2004 *Special Master's Report*. Because of the error, on June 18, 2004, Special Master Cushman ordered the *Master's Report and Recommendation* withdrawn.

Because of Special Master Cushman's June 30, 2004 retirement, the SRBA Court has rescinded the *Order of Reference* in the above subcases. The Court finds that it is appropriate that Presiding Judge John M. Melanson proceed in the above subcases in the manner set forth in *Administrative Order 1* for Special Masters. Therefore, in the above cases, Presiding Judge Melanson will issue *Special Master's Reports and Recommendations*, and parties outside of the subcases will be allowed to make *Motions to Alter or Amend* in the same manner as set forth in *AO1* for proceedings before Special Masters.

On June 30, 2004, Standard Form 5/*Stipulated Elements of a Water Right* forms were filed in

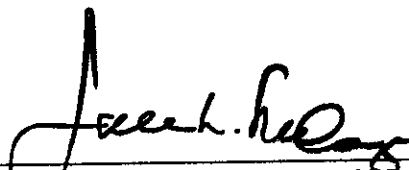
the above subcases, signed by the Claimant with IDWR's concurrence. The *Standard Form 5/Stipulated Elements of a Water Right* form for subcase 67-13072 stated that the Claimant and IDWR agreed and stipulated that the water right be dismissed with prejudice. The *Standard Form 5/Stipulated Elements of a Water Right* forms for subcases 67-13281, 67-13261, and 67-13282 all stipulated that the rights be decreed with state-based beneficial use priority dates.

CONCLUSIONS OF LAW

Therefore, based on the file and record herein and pursuant to the *Standard Form 5* forms, IT IS RECOMMENDED that water rights 67-13281, 67-13261, and 67-13282 be decreed with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

IT IS FURTHER RECOMMENDED that water right 67-13072 be **disallowed with prejudice**.

DATED: July 1, 2004



JUDGE JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

JUL -1 PM 1:35
CLERK OF DISTRICT COURT
IDAHO

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): 67-13072
67-13261 67-13281 67-13282

On July 01, 2004, Special Master JOHN M MELANSON
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 July 01, 2004.



JULIE MURPHY
Deputy Clerk

JUL -1 PM 1:35
FILED

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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 67-13072
67-13261 67-13281 67-13282

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 July 01, 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


JULIE MURPHY
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
07/01/04