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JUL 29 2004

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

2004 JUL 28 PM 3 43

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

) Subcase 84-11988
) (USDI/BLM)
)
) SPECIAL MASTER REPORT
)

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Director's Report for Domestic and Stockwater, Reporting Area 22 (IDWR Basin 84)* on March 19, 1999. The Director recommended 84-11988 to the United States of America, Department of Interior, Bureau of Land Management, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho, 83709-1657, for .02 cfs from Lolo Creek for year-'round stockwater use in Clearwater County with a priority date of January 1, 1887, based on beneficial use.

On June 2, 1999, the State of Idaho filed an *Objection* in multiple subcases, including subcase 84-11988, objecting to priority date ("If this water right exists, the State Law based portion of this right should have a priority date no earlier than June 28, 1934.") and alleging that the water right should not exist. On September 17, 1999, the United States filed an *Objection* to place of use.

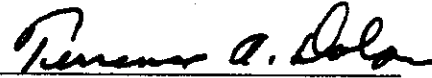
On August 29, 2002, the United States and certain private parties filed a *Stipulation* in multiple subcases, including 84-11988, and an *Order Granting Withdrawal of Objections and Responses* was entered on September 5, 2002. On June 11, 2003, an *Order Dismissing State of Idaho Objections* was entered based on the parties' *Stipulation to Resolve Objections*.

On June 9, 2004, the United States, with IDWR's concurrence, filed an *Amended Claim Standard Form 5* agreeing to a June 28, 1934, priority date and amended point of diversion and place of use.

Conclusions of Law

The United States is entitled to a partial decree adjudicating a water right under claim 84-11988 as described in the *Amended Claim SF-5* and the attached *Special Master Recommendation for Partial Decree for Water Right 84-11988*.

DATED July 28, 2004.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

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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Case No. 39576)
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PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 84-11988

2004 JUL 28 PM 3 43

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

SOURCE: LOLO CREEK TRIBUTARY: CLEARWATER 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: T35N R03E S19 LOT 3 (NWNWSW) (Instream Ending Point)
S26 NENENW (Instream Beginning Point)

*****WITHIN CLEARWATER AND IDAHO COUNTIES*****

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
	T35N R03E S19 LOT 3 (NWSW) LOT 4 (SWSW)
	SESW NESE
	SWSE SESE
	S20 SWNE SENE
	S21 SWNW SENW
	NWSW NESE
	NESW NWSW
	LOT 3 (NWSE) LOT 2 ()
	LOT 6 ()
	S22 SWNW SENW
	NESW NESE
	NWSE SESE
	S23 SWSW SESW
	S26 NENW
	S30 NENW

*****WITHIN CLEARWATER AND IDAHO COUNTIES*****

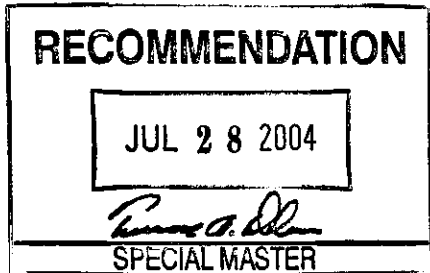
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

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In Re SRBA)
)
Case No. 39576)
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CERTIFICATE OF MAILING

Water Right(s): 84-11988

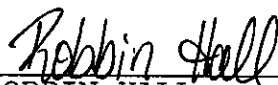
CERTIFICATE OF MAILING

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 28, 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



ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

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07/28/04

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NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

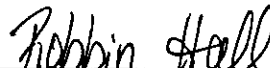
Water Right(s): 84-11988

On July 28, 2004, Special Master TERRENCE A. DOLAN 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 28, 2004.



ROBBIN HALL
Deputy Clerk