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JUL 29 2004

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO

FILED _____

2004 JUL 28 PM 3 46

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 85-11965, 85-15217, 85-15219 and
Case No. 39576) 85-15234
) (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 85)* on March 19, 1999. The Director recommended the above four claims to the United States of America, Department of Interior, Bureau of Land Management ("USDI/BLM"), 1387 S. Vinnell Way, Boise, Idaho, 83709-1657, for .02 cfs from various unnamed streams and a gulch for year-'round stockwater use in Idaho and Nez Perce Counties with a priority date of January 1, 1878, based on beneficial use.

The State of Idaho filed *Objections* on June 2, 1999, objecting to priority date and alleging the water rights should not exist. On September 17, 1999, the Western Stockgrowers Association, Joyce Livestock Company, Jerry Hoagland, Pickett Ranch & Sheep Company, Michael and Gary Poulton, Bruce, Jared, Karl and Scott Bedke and Joe Tugaw ("private parties") filed *Objections* alleging the water rights should not exist.

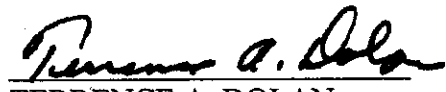
On August 29, 2002, the United States and the private parties filed a *Stipulation and Joint Motion for Order Approving Stipulation* in multiple related subcases, including the above four subcases. As part of the *Stipulation*, the private parties agreed to dismiss their objections and responses and "for claims on lands administered by the Bureau of Land Management, the United States shall receive a water right with a priority date which is the later of a) the claimed priority date or b) June 28, 1934."

On September 5, 2002, the Special Master entered an *Order Granting Withdrawal of Objections and Responses* in the related subcases objected to by the private parties. On April 21 and June 11, 2003, the Special Master entered *Orders Dismissing State of Idaho Objections* based on a *Stipulation to Resolve Objections* filed by the United States and the State. On June 8, 9 and 10, 2004, the United States, with IDWR's concurrence, filed *Amended Claim Standard Forms 5* agreeing to a priority date of June 28, 1934, and various amendments to source, point of diversion and place of use.

Conclusions of Law

The United States is entitled to partial decrees adjudicating water rights as described in the *Amended Claim SF-5's* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 85-11965, 85-15217, 85-15219 and 85-15234*.

DATED July 28, 2004.


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

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

2004 JUL 28 PM 3 47

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): 85-11965
85-15217 85-15219 85-15234

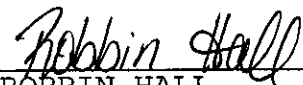
CERTIFICATE OF MAILING

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

DISTRICT COURT-SRBA
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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

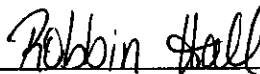
Water Right(s): 85-11965
85-15217 85-15219 85-15234

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

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

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
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In Re SRBA)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 85-15234

2004 JUL 28 PM 3 47

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

SOURCE: CAVE GULCH CREEK TRIBUTARY: SNAKE 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: T31N R04W S29 NESWNE (Instream Beginning Point) Within Nez Perce County
S31 LOT 3 (NWNWNW) (Instream Ending Point)
R05W S36 NESENE (Instream Beginning Point)
NESENE (Instream Ending 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 Nez Perce County
T31N R04W S29 SWNE SWNW
SENW
S30 SWNE SENE
LOT 7 (NESW) LOT 8 (NWSW)
LOT 10 (SWSW) LOT 11 (SWSW)
NWSE
S31 LOT 3 (NWNW)
R05W S36 SENE

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.

RECOMMENDATION

JUL 28 2004

James A. Olson
SPECIAL MASTER

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication