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DEPARTMENT OF
WATER RESOURCESDISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

2004 JUL 29 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	) Subcase 84-12005
	) (USDI / BLM)
Case No. 39576	)
_____	) 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 claim 84-12005 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 Incendiary Creek for year-'round stockwater use in Idaho County with a priority date of January 1, 1887, based on beneficial use.

The State of Idaho filed an *Objection* on June 2, 1999, objecting to priority date and alleging the water right should not exist. The United States filed an *Objection* on September 17, 1999, objecting to point of diversion and place of use.

On August 29, 2002, the United States and certain "private parties" filed a *Stipulation and Joint Motion for Order Approving Stipulation* in multiple related subcases, including 84-12005. 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."

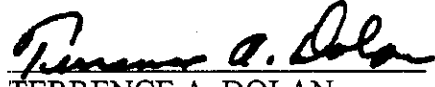
On September 5, 2002, the Special Master entered an *Order Granting Withdrawal of Objections and Responses* in the same multiple subcases objected to by the private parties. On June 11, 2003, the Special Master entered an *Order Dismissing State of Idaho Objections* based on a *Stipulation to Resolve Objections* filed by the United States and the State. Finally, on June

9, 2004, the United States, with IDWR's concurrence, filed an *Amended Claim Standard Form 5* agreeing to a priority date of June 28, 1934, 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 '84-12005 as described in the *Amended Claim SF-5* and the attached *Special Master Recommendation for Partial Decree for Water Right 84-12005*.

DATED July 29, 2004.


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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In Re SRBA)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 84-12005

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

SOURCE: INCENDIARY CREEK TRIBUTARY: LOLO 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: T34N R04E S06 LOT 5 (NENESW) (Instream Beginning Point) Within Clearwater County
LOT 5 (SENESEW) (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 Clearwater County
T34N R04E S06 LOT 5 (NESW)

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

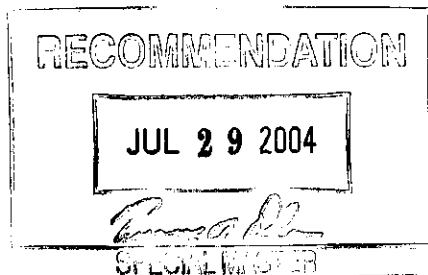
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 84-12005

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 29, 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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07/29/04

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)
Case No. 39576)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 84-12005

On July 29, 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 29, 2004.



ROBBIN HALL
Deputy Clerk