

JUL 30 2004

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

2004 JUL 29 PM 3 45

**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 85-11982, 85-11992, 85-12010,
	)	85-12011, 85-12067 and 85-12088
Case No. 39576	)	(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 five claims 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 various creeks, streams and a canyon for year-'round stockwater use in Idaho, Lewis and Nez Perce Counties with a priority date of November 18, 1895, based on beneficial use.

On June 2, 1999, the State of Idaho filed *Objections* in the above five subcases objecting to priority date and alleging that the water rights should not exist. On September 17, 1999, the United States filed *Objections* to source, 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 the above five 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*. On April 21, 2003, the Special Master entered an *Order Dismissing*

State of Idaho Objections based on the private parties' *Stipulation*. Finally, on June 9, 2004, the United States, with IDWR's concurrence, filed *Amended Claim Standard Forms 5* agreeing to a June 28, 1934, priority date and various amendments to source, point of diversion and place of use.

Conclusions of Law

The United States America is entitled to partial decrees adjudicating water rights under claims 85-11982, 85-11992, 85-12010, 85-12011, 85-12067 and 85-12088 as described in the *Amended Claim SF-5* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 85-11982, 85-11992, 85-12010, 85-12011, 85-12067 and 85-12088*.

DATED July 29, 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
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 85-11982

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

SOURCE: THREEMILE CREEK TRIBUTARY: CLEARWATER RIVER, SOUTH FORK

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 R03E S24 LOT 5 (NWSW) (Instream Ending Point) Within Idaho County
LOT 4 (NWSW) (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
T31N R03E S24 LOT 4 (NWSW) LOT 5 (NWSW)

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

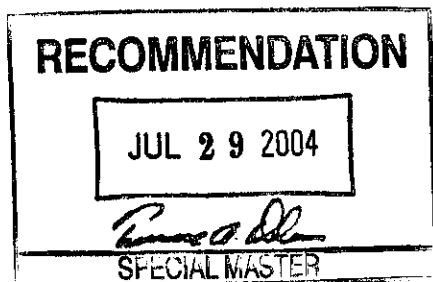
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

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 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): 85-11982
85-11992 85-12010 85-12011
85-12067 85-12088

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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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

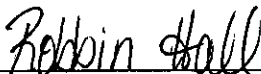
Water Right(s): 85-11982
85-11992 85-12010 85-12011
85-12067 85-12088

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