

2004 AUG -5 PM 1:30
DISTRICT COURT
TWIN FALLS, IDAHO
FILED
TT-SRBA
J.M.

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	)	SPECIAL MASTER'S REPORT
	)	
	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
Case No. 39576	)	
	)	FOR WATER RIGHT: 79-07148
	)	
	)	

I. PROCEDURAL HISTORY

A notice of claim was filed for the above water right by the United States, through the Department of Interior, Bureau of Land Management (United States) pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation for the elements of this water right.

On September 17, 1999, objections were filed to the above water right by the United States. On September 17, 1999, objections were filed by Western Stockgrowers Assoc., Joe Tugaw, Michael Poulton, Gary Poulton, Karl Bedke, Jared Bedke, Scott Bedke, Bruce Bedke, Jerry Hoagland and Joyce Livestock Company. On August 29, 2002, the parties filed a *Stipulation and Joint Motion for Order Approving Stipulation, Notice of Withdrawal of Objections and Responses* filed by Mr. Norman Semanko for Bruce Bedke et al, *Notice of Withdrawal of Objections and Responses* filed by Mr. Norman Semanko for Western Stockgrowers et al. On September 18, 2002, an *Order Dismissing Objections and Responses with Prejudice; and Order Dismissing Parties* was issued by Special Master Thomas Cushman.

On March 23, 2004, an *Order Requiring Submission of SF5's* was filed by Special Master

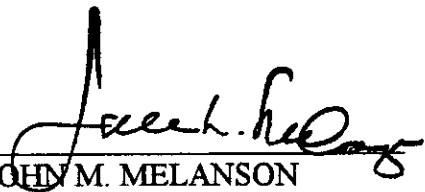
Cushman. On June 8, 2004, a *Standard Form 5/Amended Claim* signed by the United States with IDWR's concurrence was filed along with an *Amended Director's Report*. On June 30, 2004, an *Order Rescinding Order of Reference* to Special Master Thomas Cushman was filed. The *Order* stated that the Court would proceed in the above subcase with Presiding Judge John Melanson proceeding in the same fashion as specified by *Administrative Order 1* for Special Masters. No objections have been received to the *Amended Director's Report*.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein and pursuant to the *Standard Form 5* and *Amended Director's Report*, IT IS RECOMMENDED that the above water right be decreed with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P.*

54(b)

DATED August 5, 2004.


JOHN M. MELANSON
Presiding Judge
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

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 79-07148

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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED *mm*

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

SOURCE: SPRING TRIBUTARY: SALMON RIVER

QUANTITY: 0.02 CFS
1.30 AFY

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 08/06/1983

POINT OF DIVERSION: T29N R01E S34 LOT 8 (SESWSE) Within Idaho County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	11-01 TO 06-15	0.01 CFS 0.70 AFY
	Domestic	01-01 TO 12-31	0.01 CFS 0.60 AFY

PLACE OF USE: Stockwater Within Idaho County
T29N R01E S34 LOT 8 (SWSE)
Domestic Within Idaho County
T29N R01E S34 LOT 8 (SWSE)

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

Recommendation 8/5/04
Frank Healy

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TWIN FALLS CO., IDAHO
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STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 79-07148

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 August 05, 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

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08/05/04

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NOTICE OF T-SRBA
TWIN FALLS CO., 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): 79-07148

On August 05, 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 August 05, 2004.


JULIE MURPHY
Deputy Clerk