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DEPARTMENT OF
WATER RESOURCES

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FILED - SRBA
TWIN FALLS CO., IDAHO
[Signature]

**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) **ORDER DISMISSING RESPONSES**
) **and**
Case No. 39576) **SPECIAL MASTER'S REPORT**
) **AND RECOMMENDATION**
)
) **For Water Right: 78-04279**
)

I.

Procedural Background

Subcase 78-04279 was claimed as a state-based beneficial use water right by the United States, Department of Interior, Bureau of Land Management. The state-based claim was recommended disallowed by the Idaho Department of Water Resources.

Objections were filed by the United States, stating the right should be recommended, and responses were filed by Scott Bedke, Karl Bedke, Bruce Bedke, Joe Tugaw, Jared Bedke, Gary Poulton, Michael Poulton, Pickett Ranch and Sheep Co., Jerry Hoagland, Joyce Livestock, Western Stock Growers and Betty and Willis D. Devany, all represented by Norman Semanko. On April 23, 2004, a status conference was held before Special Master Thomas R. Cushman. At the status conference, Mr. Semanko stated that pursuant to stipulation, the responses of his clients were withdrawn in some cases, although it was unclear from the record whether that withdrawal was made in the above subcase.

Standard Form 5/Stipulated Elements of a Water Right forms signed by the United States with IDWR concurrence as to the state-based water right were filed on June 30, 2004. The Court rescinded the *Order of Reference to Special Master Cushman* on

July 8, 2004. The Court will proceed in the above subcase in the same fashion as specified in *Administrative Order 1* for proceedings by Special Masters. The Court held a hearing on August 17, 2004, to affirm that Mr. Semanko's clients' responses were properly withdrawn in the above subcase. Mr. Travis Thompson appeared in Mr. Semanko's place, and stated the responses should be withdrawn and dismissed.

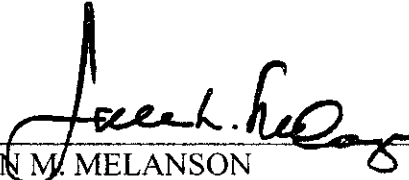
II.

Findings of Fact and Conclusions of Law

THEREFORE, it is ordered that the responses filed by Mr. Semanko are **dismissed with prejudice.**

It appears from the record and the *Standard Form 5* that all objections and responses have been resolved. Therefore, based on the file and record herein and pursuant to the *Standard Form 5*, 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 19, 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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 78-04279

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

SOURCE: SPRING TRIBUTARY: SHEEP CREEK

QUANTITY: 0.03 AFY

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

PRIORITY DATE: 12/19/1956

POINT OF DIVERSION: T23N R01E S15 NENESE Within Idaho County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater Storage	06-01 TO 11-01	0.02 AFY
	Stockwater from Storage	06-01 TO 11-01	0.02 AFY
	Wildlife Storage	01-01 TO 12-31	0.01 AFY
	Wildlife from Storage	01-01 TO 12-31	0.01 AFY

PLACE OF USE:	Stockwater Storage	Within Idaho County
	T23N R01E S15 NESE	
	Stockwater from Storage	Within Idaho County
	T23N R01E S15 NESE	
	Wildlife Storage	Within Idaho County
	T23N R01E S15 NESE	
	Wildlife from Storage	Within Idaho County
	T23N R01E S15 NESE	

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.

BASIS OF CLAIM - BENEFICIAL USE

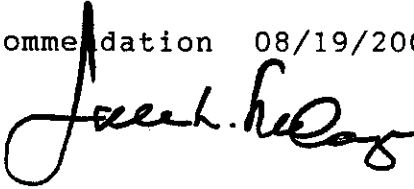
BLM RECORD ID = 7806588001

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 08/19/2004



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

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DISTRICT COURT - 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

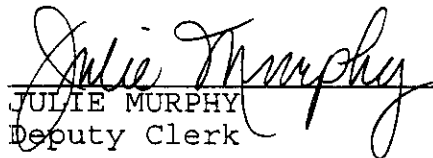
Water Right(s): 78-04279

On August 19, 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 19, 2004.



JULIE MURPHY
Deputy Clerk

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SRBA
TWIN FALLS CO. IDAHO
FILED

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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 78-04279

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 19, 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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08/19/04